

MONTANA LEGISLATIVE HISTORY

Chapter 696 19 89

Bill H 752 S _____ Original bill & history / c

H. Committee on Natural Resources

Hearing Date(s) Mar 08 ✓ c

Mar 17 ✓ c

_____ ✓ c

_____ ✓ c

Date Out Mar 22 ✓ c

S. Committee on Natural Resources

Mar 8 ✓ c

Mar 15 ✓ c

hearing Date Apr 5 ✓ c

Apr 10 ✓ c

Apr 11 ✓ c

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Note: A Free Conference Report was adopted.
Its minutes were not recorded.

HOUSE FINAL STATUS

	TRANSMITTED TO SENATE		
3/13	REFERRED TO FINANCE & CLAIMS		
3/21	HEARING		
3/21	COMMITTEE REPORT--BILL CONCURRED		
3/23	2ND READING CONCURRED	48	1
3/28	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/31	SIGNED BY SPEAKER		
4/04	SIGNED BY PRESIDENT		
4/04	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 473	EFFECTIVE DATE:	4/08/89

HB 751 INTRODUCED BY DRISCOLL
REVISE INDIVIDUAL INCOME TAX STRUCTURE WITH LOWER
RATES & EXEMPTION CHANGES

2/27	INTRODUCED
2/28	REFERRED TO TAXATION
2/28	FISCAL NOTE REQUESTED
3/06	FISCAL NOTE RECEIVED
3/08	FISCAL NOTE PRINTED
3/15	HEARING
	DIED IN COMMITTEE

HB 752 INTRODUCED BY RANEY, ET AL.
ESTABLISH A SOLID WASTE MANAGEMENT FEE FOR INCINERATION OR DISPOSAL OF SOLID WASTE TRANSPORTED
BETWEEN REGIONS

3/01	INTRODUCED		
3/03	REFERRED TO NATURAL RESOURCES		
3/04	FISCAL NOTE REQUESTED		
3/08	HEARING		
3/09	FISCAL NOTE RECEIVED		
3/10	FISCAL NOTE PRINTED		
3/27	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/29	2ND READING PASSED	89	2
3/30	3RD READING PASSED	92	5

	TRANSMITTED TO SENATE		
3/31	REFERRED TO NATURAL RESOURCES		
4/05	HEARING		
4/10	HEARING		
4/11	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
4/13	2ND READING CONCURRED	48	0
4/13	3RD READING CONCURRED	46	2

	RETURNED TO HOUSE WITH AMENDMENTS		
4/15	2ND READING AMENDMENTS NOT CONCURRED	88	8
4/17	FREE CONFERENCE COMMITTEE APPOINTED		
4/18	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/19	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	89	4
4/20	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	87	5

SENATE

HOUSE FINAL STATUS

4/17	FREE CONFERENCE COMMITTEE APPOINTED		
4/19	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/19	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	50	0
4/19	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
4/27	SIGNED BY PRESIDENT		
4/28	SIGNED BY SPEAKER		
4/28	TRANSMITTED TO GOVERNOR		
5/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 696	EFFECTIVE DATE:	5/22/89

HB 753 INTRODUCED BY PAVLOVICH, ET AL.
ALLOW UNLIMITED PROGRESSIVE PRIZES IN VIDEO DRAW
POKER AND KENO MACHINES CONNECTED TO
CENTRALIZED COMPUTERIZED SYSTEM

3/01	INTRODUCED		
3/03	REFERRED TO TAXATION		
3/04	FISCAL NOTE REQUESTED		
3/10	FISCAL NOTE RECEIVED		
3/14	FISCAL NOTE PRINTED		
3/16	HEARING		
3/20	TABLED IN COMMITTEE		

HB 754 INTRODUCED BY HARPER, ET AL.
ESTABLISH RIVER RESTORATION PROGRAM THROUGH FISHING
LICENSE FEE INCREASE

3/02	INTRODUCED		
3/03	REFERRED TO NATURAL RESOURCES		
3/04	FISCAL NOTE REQUESTED		
3/10	HEARING		
3/10	FISCAL NOTE RECEIVED		
3/16	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/21	FISCAL NOTE PRINTED		
3/29	2ND READING PASSED	55	40
3/30	3RD READING PASSED	49	48

	TRANSMITTED TO SENATE		
3/31	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
4/05	HEARING		
4/06	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
4/08	2ND READING CONCURRED	30	14
4/10	3RD READING CONCURRED	36	12

	RETURNED TO HOUSE WITH AMENDMENTS		
4/11	2ND READING AMENDMENTS CONCURRED	90	9
4/12	3RD READING AMENDMENTS CONCURRED	81	16
4/18	SIGNED BY SPEAKER		
4/19	SIGNED BY PRESIDENT		
4/19	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 601	EFFECTIVE DATE:	7/01/89

HB 755 INTRODUCED BY THOMAS, ET AL.
INCREASE STATE EMPLOYEES' PAY BY FLAT DOLLAR AMOUNT
FOR FISCAL YEARS 1990 & 1991

HOUSE BILL NO. 752

INTRODUCED BY RANEY, COHEN, KADAS, O'KEEFE

IN THE HOUSE

MARCH 1, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
MARCH 3, 1989	FIRST READING.
MARCH 27, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. PRINTING REPORT.
MARCH 29, 1989	SECOND READING, DO PASS.
MARCH 30, 1989	ENGROSSING REPORT. THIRD READING, PASSED. AYES, 92; NOES, 5. TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 31, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES. FIRST READING.
APRIL 11, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 12, 1989	PASS CONSIDERATION.
APRIL 13, 1989	SECOND READING, CONCURRED IN. ON MOTION, RULES SUSPENDED TO PLACE BILL ON THIRD READING THIS DAY THIRD READING, CONCURRED IN. AYES, 46; NOES, 2.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 17, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 17, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 18, 1989

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 19, 1989

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 19, 1989

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 20, 1989

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *752*
2 INTRODUCED BY *Conroy* *Kados* *Orly*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A SOLID
5 WASTE MANAGEMENT FEE FOR THE INCINERATION OR DISPOSAL OF
6 SOLID WASTE; ESTABLISHING A SOLID WASTE MANAGEMENT ACCOUNT;
7 ESTABLISHING SOLID WASTE MANAGEMENT REGIONS; PROVIDING
8 PENALTIES FOR FAILURE TO PAY THE SOLID WASTE MANAGEMENT FEE;
9 PROVIDING ADDITIONAL AIR QUALITY PERMIT REQUIREMENTS FOR
10 CERTAIN SOLID WASTE INCINERATORS; AMENDING SECTIONS
11 75-10-104 AND 75-10-105, MCA; AND PROVIDING EFFECTIVE
12 DATES."
13

14 STATEMENT OF INTENT

15 It is the intent of the legislature that the department
16 of health and environmental sciences adopt rules
17 establishing procedures for the determination and collection
18 of the solid waste management fee provided for in [section
19 1]. It is the intent of the legislature that the department
20 be able to use this fee to bolster its solid waste
21 management program in a manner, including the hiring of
22 adequate staff, that will:

23 (1) protect the public health, welfare, and safety and
24 the environment of Montana;

25 (2) provide assistance to local governments in meeting

1 the pending federal solid waste management requirements;

2 (3) develop an effective and coordinated regional
3 approach to solid waste management in Montana; and

4 (4) ensure a state and local capability to effectively
5 manage the importation of solid waste into Montana for
6 disposal purposes.

7 It is the intent of the legislature that the board of
8 health and environmental sciences have discretion to apply
9 intraregional fees to interregional solid waste incineration
10 or disposal in situations where the incineration or disposal
11 is consistent with state solid waste management goals and
12 results in equivalent or improved protection of the public
13 health, safety, and welfare and the environment when
14 compared to the alternative of intraregional incineration or
15 disposal. Fee reductions developed by the board must apply
16 only to the specific solid waste sources and disposal
17 facilities that meet these criteria. It is the intent of the
18 legislature that the department adopt rules providing
19 guidelines for recommending to the board when such fee
20 reductions should be approved.

21 It is the intent of the legislature that the department
22 of health and environmental sciences not issue an air
23 quality permit for any large-scale incineration of solid
24 wastes until the department and the public have necessary
25 information to understand the composition and concentrations

of the emissions and until the emissions and projected ambient concentrations are known to constitute a negligible risk to the public health, safety, and welfare and to the environment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Solid waste management fee.**

(1) Except as provided in subsection (2), any person who owns an incinerator that burns more than 1,000 tons of solid waste a year or a solid waste disposal facility that is licensed pursuant to 75-10-221 and rules adopted under 75-10-221 and that disposes of more than 1,000 tons of solid waste a year shall pay to the department a quarterly fee that is calculated based on the classification of the disposal facility, the weight of the solid waste incinerated or disposed of at the facility, and the origin of the waste, as follows:

(a) For an incinerator or for a licensed facility that is a Class I or Class II disposal site under rules adopted pursuant to 75-10-204, the fee is:

(i) 10 cents a ton for the incineration or disposal of waste generated within its region; and

(ii) \$1 a ton for the incineration or disposal of waste generated in a different region.

(b) For a licensed facility that is a Class III

disposal site authorized to accept only inert waste under rules adopted pursuant to 75-10-204, the fee is:

(i) 5 cents a ton for the disposal of waste generated within its region; and

(ii) 50 cents a ton for the disposal of waste generated in a different region.

(2) (a) For a facility subject to subsection (1)(a), the fee provided for in subsection (1)(a)(i) may apply to the incineration or disposal of waste generated in a different region if, based on the recommendation of the department or on evidence provided at hearing, the board finds that the incineration or disposal is consistent with state solid waste management goals and results in equivalent or improved protection of the public health, safety, and welfare and the environment when compared to the alternative of intraregional incineration or disposal.

(b) For a facility subject to subsection (1)(b), the fee provided for in subsection (1)(b)(i) may apply to the disposal of waste generated in a different region if, based on the recommendation of the department or on evidence provided at hearing, the board finds that the disposal is consistent with state solid waste management goals and results in equivalent or improved protection of the public health, safety, and welfare and the environment when compared to the alternative of intraregional disposal.

(3) All fees collected must be deposited in the solid waste management account provided for in [section 2].

NEW SECTION. Section 2. Solid waste management account. (1) There is a solid waste management account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue from the solid waste management fee provided for in [section 1]; and

(b) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source, intended to be used for the purposes of the account.

(3) The account may be used by the department only for the administration of part 2 and this part.

NEW SECTION. Section 3. Solid waste disposal regions.

(1) There are six solid waste disposal regions, as follows:

(a) eastern Montana, consisting of Phillips, Garfield, Rosebud, and Powder River counties and all Montana counties east of these counties;

(b) northern Montana, consisting of Blaine, Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole counties;

(c) south central Montana, consisting of Bighorn, Carbon, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and

Yellowstone counties;

(d) southwestern Montana, consisting of Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Meagher, Park, Powell, and Silver Bow counties;

(e) northwest Montana, consisting of Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders counties; and

(f) all areas outside of Montana.

(2) The department shall assist and encourage persons involved in solid waste management to coordinate activities within each region in Montana to provide for the safe, efficient, and effective management of solid waste.

NEW SECTION. Section 4. Penalties for failure to pay fee. A person who owns a solid waste disposal facility subject to a fee under [section 1] and fails to pay the fee in the manner provided by department rule is subject to a fine of not more than \$2,000 or imprisonment not to exceed 6 months, or both, and shall reimburse the department for the amount of the fee owed and interest calculated at a rate equal to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

NEW SECTION. Section 5. Solid waste incineration -- additional permit requirements. (1) The owner or operator of a facility that proposes to incinerate more than 70 tons of

1 solid waste in any day shall apply to the department,
2 pursuant to 75-2-211, for a permit authorizing the
3 incineration and consequent emissions.

4 (2) The department may not issue a permit to a
5 facility described in subsection (1) until:

6 (a) the owner or operator has provided to the
7 department's satisfaction:

8 (i) a characterization of emissions and ambient
9 concentrations of air pollutants, including hazardous air
10 pollutants, from any existing incineration at the facility;
11 and

12 (ii) an estimate of emissions and ambient
13 concentrations of air pollutants, including hazardous air
14 pollutants, from the incineration of solid waste as proposed
15 in the permit application; and

16 (b) the department has reached a determination that
17 the projected emissions and ambient concentrations will
18 constitute a negligible risk to the public health, safety,
19 and welfare and to the environment.

20 (3) The department shall require the application of
21 air pollution control equipment, engineering, or procedures
22 as necessary to satisfy the determination required under
23 subsection (2)(b). The equipment, engineering, or procedures
24 must provide particulate and gaseous emission reductions
25 equivalent to or more stringent than those achieved through

1 the best available control technology, in addition to any
2 other controls necessary to satisfy the determination
3 required under subsection (2)(b).

4 **Section 6.** Section 75-10-104, MCA, is amended to read:

5 **"75-10-104. Duties of department.** The department
6 shall:

7 (1) prepare a state solid waste management and
8 resource recovery plan for submission to the board;

9 (2) prepare rules necessary for the implementation of
10 this part for submission to the board, including but not
11 limited to rules:

12 (a) governing the submission of plans for a solid
13 waste management system~~7-rules~~;

14 (b) governing procedures to be followed in applying
15 for and making loans~~7-and-rules~~;

16 (c) governing agreements between a local government
17 and the department for grants or loans under this part;

18 (d) establishing, for the purpose of determining the
19 solid waste management fee to which a facility is subject
20 under [section 1], methods for determining or estimating the
21 amount of solid waste incinerated or disposed of at a
22 facility;

23 (e) providing procedures for the quarterly collection
24 of the solid waste management fee provided for in [section
25 1]; and

1 (f) providing guidelines for recommendations to the
 2 board concerning the application of intraregional fees
 3 instead of interregional fees for certain incineration or
 4 disposal of solid waste, as provided for in [section 1(2)];

5 (3) provide financial assistance to local governments
 6 for front-end planning activities for a proposed solid waste
 7 management system which is compatible with the state plan
 8 whenever such financial assistance is available;

9 (4) provide technical assistance to persons within the
 10 state for planning, designing, constructing, financing, and
 11 operating a solid waste management system in order to insure
 12 that the system conforms to the state plan;

13 (5) provide front-end organizational loans for the
 14 implementation of an approved solid waste management system
 15 whenever funds for such loans are available;

16 (6) enforce and administer the provisions of this
 17 part;

18 (7) administer loans made by the state under the
 19 provisions of this part; and

20 (8) approve plans for a proposed solid waste
 21 management system submitted by a local government."

22 **Section 7.** Section 75-10-105, MCA, is amended to read:

23 "75-10-105. Powers of department. The department may:

24 (1) accept loans and grants from the federal
 25 government and other sources to carry out the provisions of

1 this part;

2 (2) make loans to a local government for the planning,
 3 design, and implementation of a solid waste management
 4 system; and

5 (3) make grants for a local government for planning or
 6 implementation of a solid waste management system; and

7 (4) collect the solid waste management fee provided
 8 for in [section 1]."

9 **NEW SECTION. Section 8.** Extension of authority. Any
 10 existing authority to make rules on the subject of the
 11 provisions of [this act] is extended to the provisions of
 12 [this act].

13 **NEW SECTION. Section 9.** Codification instruction. (1)
 14 [Sections 1 through 4] are intended to be codified as an
 15 integral part of Title 75, chapter 10, part 1, and the
 16 provisions of Title 75, chapter 10, part 1, apply to
 17 [sections 1 through 4].

18 (2) [Section 5] is intended to be codified as an
 19 integral part of Title 75, chapter 2, part 2, and the
 20 provisions of Title 75, chapter 2, part 2, apply to [section
 21 5].

22 **NEW SECTION. Section 10.** Severability. If a part of
 23 [this act] is invalid, all valid parts that are severable
 24 from the invalid part remain in effect. If a part of [this
 25 act] is invalid in one or more of its applications, the part

LC 0419/01

1 remains in effect in all valid applications that are
2 severable from the invalid applications.

3 NEW SECTION. **Section 11.** Effective dates. (1)
4 [Sections 1 through 4 and 6 through 10] are effective July
5 1, 1989.

6 (2) [Section 5 and this section] are effective on
7 passage and approval.

-End-

In compliance with a written request, there is hereby submitted a Fiscal Note for HB752, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An Act establishing a solid waste management fee for the incineration or disposal of solid waste; establishing a solid waste management account; establishing solid waste management regions; providing penalties for failure to pay the solid waste management fee; providing additional air quality permit requirements for certain solid waste incinerators; amending Sections 75-10-104 and 75-10-105, MCA; and providing effective dates."

ASSUMPTIONS:

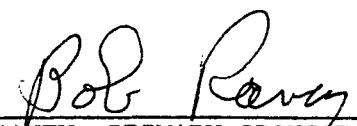
1. Few landfills have scales for weighing solid waste. Tonnage figures are derived from population served by each landfill. Amounts of solid waste/person/day are taken from the 1976 state solid waste planning document and from national figures available from various publications.
2. "Group II" waste, principally municipal solid waste, will be generated at the rate of approximately 3.5 lbs/day/person in Montana. Group II waste must be disposed in "Class II" landfill sites.
3. "Group III" waste, principally construction and demolition debris, wood wastes, vehicle tires and other inert materials, will be generated at the rate of 1.5 lbs/day/person in Montana. Group III solid waste may be disposed of in either "Class II" or "Class III" landfill sites.
4. Sixty-seven Class II landfills will dispose of more than 1000 tons/solid waste/year, based upon the population served. These facilities will pay \$64,330 in license fees to the solid waste account, assuming all are assessed at the least expensive rate, which is most probable. Due to the inability to segregate "Group II" waste amounts and "Group III" waste amounts, for purposes of this note all waste is counted at the higher rate of 10 cents/ton/person.
5. One Class II municipal waste incinerator has a capacity to dispose of 72 tons/solid waste/day. At that rate, the incinerator will pay \$2,520 per year to the solid waste account.
6. The majority of "Group III" wastes are disposed of in Class II landfills. Some of the remaining Group III material is disposed of on the site it is generated and therefore exempt from licensing and/or fees. There are approximately thirty licensed Class III sites in Montana and numerous unlicensed Class III disposal sites. Most of these remaining Class III facilities will fall below the 1000 ton/day/person size and not pay fees. We assume there will be no fees generated by Class III waste disposal.
7. Approximately four Class II disposal sites are located on private sites and are not open to the public. Most of these are licensed only for the small portion of municipal waste they discard in a larger waste stream such as mining waste, etc. These will either pay a very small fee or be exempt and are not included in this note.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

3/9/89


BOB RANEY, PRIMARY SPONSOR

DATE

3/9/89

Fiscal Note for HB752, as introduced**HB 752**

8. At the current time, there is little importation of solid waste into the state for disposal purposes. There are several proposals to bring out-of-state waste into Montana for disposal, but none of the proposals have yet been implemented. There is a probability that one landfill will begin accepting 175 tons of out-of-state waste in the next year or so. This could generate up to an additional \$65,000 annually for the solid waste account, but this amount is not included in this estimate due to the uncertainty of the operator's interests. Any other out-of-state importation would similarly increase the solid waste account.
9. The earmarked account would enable DHES to add 1.5 FTE to the solid waste management program, one full-time environmental specialist and one half-time clerical position.

FISCAL IMPACT:

	<u>FY90</u>			<u>FY91</u>		
	Current	Proposed		Current	Proposed	
	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
Revenue:	\$ -0-	\$66,850	\$66,850	\$ -0-	\$66,850	\$66,850
Expenditures:	\$ -0-	\$66,850	\$66,850	\$ -0-	\$66,850	\$66,850
Net Effect:	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-

EFFECT ON COUNTY OR LOCAL REVENUE OR EXPENDITURE:

Disposal facilities are operated by counties, municipalities, refuse disposal districts and private enterprise. Each operator will have to pass on the fee through the assessment for disposal, however it is collected. The assessment amounts to approximately 9 to 10 cents per person served per year. In the Flathead County example, 52,000 people paying .091 cents per year will pay a total of \$4,750 to the account. Site operators, counties, municipalities, refuse districts and private operators will have to add incorporate billing and payment to the state into their current accounting procedures.

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

The fees proposed will only supplement the amount the state of Montana will need to operate a solid waste management program in the future. While federal grants are not anticipated in this fiscal period, the additional \$64,330 generated for the program could be used for matching funds and enable the DHES to increase staffing to more satisfactory levels.

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on March 8, 1989, at
3:00 p.m.

ROLL CALL

Members' Present: All

Members Excused: None

Members Absent: None

Staff Present: Claudia Montagne, Secretary; Hugh Zackheim,
Staff Researcher, Environmental Quality Council

Announcements/Discussion: None

HEARING ON HB 752

Presentation and Opening Statement by Sponsor:

REP. BOB RANEY, House District 82, opened, stating that the Statement of Intent described the bill well. He said it was the intent of the Legislature that the Department of Health and Environmental Sciences (DHES) be able to use this fee on landfills and incinerators to bolster the department. Fund uses would include the hiring of adequate staff, providing of assistance to local governments in meeting the new federal solid waste rules coming down from EPA, and developing an effective and coordinated regional approach to managing solid waste in Montana, as well as imported solid waste.

REP. RANEY said it was the intent of the bill to bring about some air quality rules with regards to incineration of over 70 tons per day. Currently, he said, there were no incinerators in Montana that burn at that rate.

REP. RANEY said a fee would be put on anyone who disposed over 1,000 tons of solid waste per year, which he said would cover all landfills, and anyone who wanted to get into incineration. He said an individual would be assessed 10 cents per ton for garbage disposed within the region, and \$1 per ton for garbage disposed outside the region. REP. RANEY continued through the bill, section by section.

Testifying Proponents and Who They Represent:

Bill Good, Montana Solid Waste Contractors, Inc.
Leanne Kurtz, Montana Environmental Information Center
Jim Leiter, Department of Health and Environmental Sciences

Proponent Testimony:

BILL GOOD testified as set forth in EXHIBIT 1 and offered amendments attached to that exhibit.

LEANNE KURTZ testified that MEIC had a concern that Montana not become the solid waste depository of America. She said that the amount of solid waste generated per day in the nation was putting pressure on existing landfills in populated areas and forcing states to look elsewhere for extra space for disposal. She said Montana was an attractive option because the state lacked regulations. She said landfills in Montana were not prepared to accept additional waste due to their poor siting, and the minimal ground water monitoring. She encouraged the development of a solid waste management plan for the state before accepting garbage from other states. MS KURTZ said HB 752 would provide the means to improve Montana's landfills while discouraging the importation of out-of-state garbage.

JIM LEITER, Program Manager for the Municipal Solid Waste Program in the Solid and Hazardous Waste Bureau, said the department was at the hearing as neither proponent nor opponent, but to answer questions about the existing program and funding.

Testifying Opponents and Who They Represent:

John Lawton, City of Billings
Gene Vuckovich, Anaconda-Deer Lodge County

Opponent Testimony:

JOHN LAWTON, Assistant City Administrator, said the city did not oppose the intent of the bill or the program it proposed to fund. However, he had some problems with the funding mechanism. He said the local government would have to collect the fees, thus cutting into their revenue base. He said that Billings already had a good landfill operation which met current EPA requirements. He said the bill meant they would have to collect \$10,000 from the people of Billings to be given to the state for statewide application. He mentioned that the Governor had said he will veto any bill that would require additional duties of local governments.

GENE VUCKOVICH, City-County Manager for Anaconda-Deer Lodge County, said his objections were that the additional cost would be passed on to the local government and the tax

payers. He said his county was already looking at massive reductions in services and personnel. He said his concern was not with the intent, but the funding mechanism for the program.

Additional Opponent Testimony:

Valley County Board of County Commissioners (EXHIBIT 2)

Questions From Committee Members:

REP. ROTH asked the sponsor how the fee would be collected. REP. RANEY said the manager of the landfill and incinerator would forward it to the state of Montana on an annual basis, having worked with the department to arrive at the tonnage. REP. ROTH asked if the money would go into the state fund to be distributed around the state. REP. RANEY said the money would be put into the department to put people to work who would be implementing standards coming down from EPA. He said that, unlike Billings, most of Montana was not in compliance. He suggested significantly reducing or eliminating the fee on those landfills that meet EPA requirements.

REP. GIACOMETTO asked if this would affect the incinerator and waste disposal site in the sponsor's district. REP. RANEY said the bill would not affect it because of the tonnage limits; i.e., there was a 70 ton limit in the bill, and the Livingston incinerator burned less than 70 tons. He added that he would like to amend the bill to include his local incinerator. He said he would like to see tighter emission standards for incinerators.

REP. GIACOMETTO asked Mr. Leiter how capable the bureau would be of doing all the work that they would be required to do. MR. LEITER said with the existing staffing, they would not be able to carry out the intent of this bill. He said at the present time, Montana's standards were less stringent than federal standards, and the staff was doing a minimal job. He said when new EPA regulations come along, they would not have adequate staff.

REP. COHEN asked how much garbage a typical family of four would produce in a year. MR. LEITER said they would produce 1300 pounds per person, or approximately 2.5 tons, which under this fee schedule would translate into 25 cents per year per family.

REP. BROOKE asked if this act was necessary to come into compliance with the EPA regulations. MR. LEITER said the bill provided some supplemental funds to help support the solid waste staff. He said the 1.5 FTE they had now were supported by the general fund. REP. BROOKE asked if other states were charging fees and whether those fee programs were successful in addressing the problem. MR. LEITER said

it was an increasing trend to turn to fee systems, and that some had been in place for quite some time. He could not respond to their rate of success, and added that Montana had a rural solid waste program, while most of the other states with a fee system had larger programs. He said there could be a net savings for the state with the technical assistance availability of a larger staff.

REP. GIACOMETTO asked how many FTE's the department would need. MR. LEITER said to effectively operate the current state system, the department would need double the staff they have now. To operate the program under EPA's subtitle D requirements, which he saw as inevitable, the department would need more than that. He said this program would generate \$65,000, and more if solid waste was imported from outside of Montana. He said with this money, they would be able to add a full time staff member and a 1/2 time clerical position.

REP. GIACOMETTO asked what would have to be done to fund the program if the more stringent standards become effective. MR. LEITER said that the proposed regulations, which would probably be adopted, were far more stringent than the state's current regulations. He estimated that the tipping rates would triple or quadruple under the new EPA regulations and additional staff would be needed.

Closing by Sponsor:

REP. RANEY closed.

HEARING ON SB 385

Presentation and Opening Statement by Sponsor:

SEN. JOHN HARP, Senate District 4, said the bill revised the state law relating to remedial action at hazardous waste sites, and would conform the state law to the updated federal Superfund Act of 1986. He said it included the enforcement authority and he gave an overview of the bill. He said he felt the Department of Health and Environmental Sciences was better equipped to oversee the Superfund activities in the state, and felt that it would be desirable to get away from the national priority list. He said the bill would result in a reduction in cost to the responsible parties, and clean-up would be expedited.

SEN. HARP said that issues had arisen on the Senate floor, which he had clarified with Jim Foley of Pat Williams' office. He said that the operator of the Milltown dam would be exempted from liability for the Clark Fork pollution, which would bring the proposed legislation into conformance with the federal act. He said if that operator, Montana Power

EXHIBIT 1

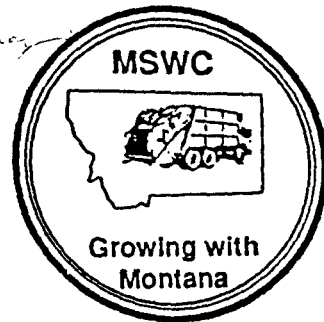
DATE

2-8-89

HB

752

Rep. Raney



March 8, 1989

Representative Bob Raney and Members of the
House Natural Resources Committee
State Capitol
Helena, MT 59620

Re House Bill 752

Dear Representative Raney and Committee Members:

For the record, I am Bill Good, representing the Montana Solid Waste Contractors, Inc., a trade association representing private industry engaged in solid waste collection and disposal in the State of Montana.

The Montana Solid Waste Contractors, Inc. supports House Bill 752, with amendments. Our proposed amendments are few in number, but they are significant to formulate outstanding legislation to protect the people of Montana and the private solid waste haulers. The proposed amendments address interregional fees and uses of the solid waste management account.

The proposed amendments are attached to this testimony.

Sincerely,

MONTANA SOLID WASTE CONTRACTORS, INC.

By: Bill Good
For: Sue Weingartner, Executive Director

MONTANA SOLID WASTE CONTRACTORS, INC.

HOUSE BILL 752

SUGGESTED AMENDMENTS

1. Statement of Intent [page 2, line 15]:

After word "disposal."

Add: "Fee reductions will apply to existing solid waste hauler jurisdictions that overlap into two or more solid waste disposal regions".

Reason: Solid waste haulers currently have jurisdictions that overlap multiple solid waste disposal regions. Waste haulers should not be required to pay the higher interregion disposal fee if they transport in their currently established jurisdictions.

2. Section 7, (2) [page 10, line 2]:

Add words, "and private industry" after word "government."

Reason: Allow private waste haulers to receive loans from the department since they pay fees, contribute to the account, and are a major player in the overall waste management system.

3. Section 7, (3) [page 10, line 5]:

Add words, "and private industry" after word "government."

Reason: Allow private waste haulers to receive grants from the department since they pay fees, contribute to the account, and are a major player in the overall waste management system.

Valley County Board of County Commissioners

P.O. BOX 311

GLASGOW, MONTANA 59230

Arden R. Nichols, Chairman

Arthur A. Arnold

Eleanor D. Pratt

Mary Lou Elde, Clerk

Telephone:

(406) 228-8221

EXHIBIT

DATE

3-8-89

HB 752

House Bill 752
Rep. Bob Raney

March 8, 1989

TO: Natural Resources House Committee
Chairman Bob Raney

FROM: Valley County Commissioners

RE: House Bill 752

The Valley County Commissioners oppose House Bill #752 because it is not in the best interest of Valley County. This bill amounts to a surcharge on the refuse the taxpayers of Valley County are already paying a fee to dispose of. We have a new refuse system which complies with the requirements set by the State.

Arden R. Nichols
Arden R. Nichols, Chairman

Arthur A. Arnold
Arthur A. Arnold, Member

Eleanor D. Pratt
Eleanor D. Pratt, Member

VCC/dw

cc: Representative Ted Schye

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-8-87

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe	✓		
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

Natural Resources COMMITTEE

HB 752

3-8-89

Rep. Raney

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on March 17, 1989, at 4:30 p.m.

ROLL CALL

Members Present: All members present except:

Members Excused: Rep. O'Keefe

Members Absent: None

Staff Present: Claudia Montagne, Secretary; Hugh Zackheim, Staff Researcher, Environmental Quality Council

Announcements/Discussion: REP. RANEY announced that REP. BARDANOUE, Chair of House Appropriations Committee, had asked the Natural Resources Committee to consider HB 760, and send him a message regarding the committee's recommendation on the bill.

REP. HANNAH, House District 86, and sponsor of HB 760, said the bill was concerned with the funding of a feasibility study for an off-stream storage site in the vicinity of Billings, namely Valley Creek. He said he was not convinced that Valley Creek was the very best project out there. However, he said, the resolution was important for several reasons. First, it made a statement that part of any comprehensive plan needed to include a major off-stream storage facility in the Billings vicinity. Second, it made a significant statement with respect to Pick-Sloane money, federal monies for water development. Third, in order to receive those monies, the state needed to put forth a good faith effort so that the Congressional Delegation could move forward on the federal level. He mentioned that Sen. Burns was on the Water/Energy Committee, and that such a resolution would be helpful to him in getting federal funding for water projects in the state of Montana.

REP. RANEY asked about the budget constraints, and the request in the bill for \$100,000. REP. HANNAH replied that if Appropriations could put \$3,000,000 in libraries, they could consider \$100,000 for a long-term development commitment. If the project did not take place, the money would revert.

REP. HANNAH suggested sending a recommendation that this was a worthy project, and that the state needed to encourage Congress to come forward with Pick-Sloane money.

Leiter said there were not any limits yet, but that said EPA was beginning to set these. He said the amount was 50 lbs.

REP. RANEY suggested that they make it 100 lbs until July 1, 1991, at which time it would come down to 50 lbs. Mr. Ahrens said the additional lead time and the higher limit would help the smaller hospitals in the state, 15 of which do not have incinerators. Rep. Raney said the other pound figures in the bill would have to be doubled to be consistent if this change were made. He said this would give the next legislature the opportunity to address the issue.

REP. HARPER registered a concern about the exemption given to mortuaries. REP. RANEY said that was his amendment, and that he had checked into the generation of infectious waste from morgues. He assured Rep. Harper that no infectious wastes were generated there.

REP. RANEY suggested leaving the changes in lbs and fees, without any increases or decreases set for 1991. The committee agreed.

REP. ROTH commented on the disparity between the two fee levels (\$2,000 and \$5,000 annually). He suggested an incremental increase in the fees as the poundage increased. REP. RANEY replied that a person operating at those levels would be in the business, and such an increase would not be substantial. He said there was no commercial infectious waste operation in the state at this time.

REP. ADDY made a motion to adopt the amendments as set forth in the gray bill with the day's amendments added. The motion CARRIED.

Recommendation and Vote: REP. ADDY moved the bill DO PASS AS AMENDED, and the motion carried with Rep. Giacometto, Rep. Gilbert, and Rep. Owens voting no.

DISPOSITION OF HB 752

Hearing 3/8/89

Motion: REP. HARPER made a motion that HB 752 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: MR. ZACKHEIM distributed conceptual amendments suggested by Rep. Raney. REP. RANEY commented that there would be no fees for disposing of garbage within the region. He also called attention to the waiver of fees for intra-regional garbage disposal already in operation. He said that the major change was amendment 5. This closed the loophole in current state law which

would allow an out-of-state corporation to purchase or lease land in Montana and dispose of solid waste on that land without licensing or fees. Rep. Raney said it also provided for civil penalties (\$1,000 per day).

MR. ZACKHEIM went through the amendments. Rep. Raney said that with these amendments, the legislature would have something to start with, and would receive feed back from people affected by the law. The amendments also clarified that any current inter-regional transport (including from Yellowstone Park) would be eligible for a waiver.

REP., GIACOMETTO asked if this bill would prohibit waste from coming into the state, and if it would prohibit dumping. Rep. Raney said no. He said the loop hole closed was that a person or corporation would have to be licensed so that the state would know what they were dumping.

REP. HARPER moved the conceptual amendments, including the codification amendment, and the grandfathering of interstate disposal operations currently in practice. The motion CARRIED unanimously.

Recommendation and Vote: REP. ROTH moved DO PASS AS AMENDED.
The motion CARRIED, with Rep. Gilbert and Rep. Giacometto voting no.

DISPOSITION OF HB 757

Hearing 3/10/89

Motion: REP. GIACOMETTO moved the bill DO PASS.

Discussion: None

Amendments, Discussion, and Votes: REP. GIACOMETTO moved the amendments.

REP. COHEN said the subcommittee had worked long and hard the past two days, and had arrived at general agreement with all the interested parties including agricultural organization. They had said that although it would be tough on them, they thought it was necessary and that they could go with it. He went through the amendments to the bill that provided some protection for groundwater in agricultural areas of the state.

REP. COHEN said there were no substantive changes in the bill. Instead, what they proposed were clean-up measures. Rep. Giacometto said the Board of Health and Environmental Sciences (DHES) would be responsible for the development of standards, but that they would start from the EPA standards. The Department of Agriculture (DOA) would be responsible for the development of agricultural chemical groundwater management plans, which would allow for prevention as well as enforcement. The bill also set up an educational program

EXHIBIT 4
DATE 3-17-89
HB 11375

HOUSE BILL 752 -- CONCEPTUAL AMENDMENTS

REP. RANEY

HOUSE NATURAL RESOURCES COMMITTEE

MARCH 17, 1989

1. Remove fee for intraregional solid waste disposal
2. Keep fee for in inter-regional but provide waiver for inter-regional transport within state
3. Allow fees to also be used for the implementation of [section 5] for air quality review of any proposed new incinerator
4. Change board to department for fee waivers
5. Close the loophole in current law (75-10-214) that would allow an out-of-state corporation to purchase or lease land in Montana and dispose of out-of-state solid waste on that land and not be subject to licensing or fees
6. Provide civil penalties of up to \$1,000 for violations of 75-10, part 2.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 3-17-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe			✓
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

STANDING COMMITTEE REPORT

March 23, 1989

Page 1 of 4

Mr. Speaker: We, the committee on Natural Resources report that HOUSE BILL 752 (first reading copy -- white), with statement of intent included, do pass as amended.

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Title, line 6.

Following: the first "SOLID WASTE"

Strike: ";

Insert: "TRANSPORTED BETWEEN REGIONS; PROVIDING FOR A WAIVER OF THE FEE WHEN THE INCINERATION OR DISPOSAL IS CONSISTENT WITH SPECIFIED CRITERIA; EXEMPTING EXISTING SOLID WASTE INCINERATION AND DISPOSAL FROM THE FEE;"

2. Title, line 8.

Following: "FEE;"

Insert: "PROVIDING A CIVIL PENALTY FOR VIOLATIONS OF SOLID WASTE DISPOSAL LAWS AND RULES;"

3. Title, line 11.

Following: "75-10-104"

Strike: "AND"

Insert: ";

Following: "75-10-105,"

Insert: "AND 75-10-214,"

Following: "PROVIDING"

Insert: "AN IMMEDIATE"

4. Title, line 12.

Strike: "DATES"

Insert: "DATE"

5. Page 1, line 19.

Following: "1]"

Insert: "and for the waiver of the fee when consistent with the criteria provided in [section 1(2)]"

6. Page 2, line 7.

Strike: "board"

Insert: "department"

7. Page 2, lines 8 and 9.

Strike: "have" on line 8 through "to" on line 9

Insert: "waive the fee for"

8. Page 2, line 12.

Strike: "the"

Insert: "Montana's"

9. Page 2, line 13.

Following: "safety,"

Strike: "and"

Following: "welfare"

Strike: "and the"

Insert: ", and"

10. Page 2, lines 15 through 20.

Strike: "Fee" on line 15 through line 20 in its entirety

Insert: "The incineration or disposal of solid waste at a
licensed facility in the manner and quantity incinerated or
disposed of before [the effective date of this act] is
exempt from the solid waste management fee."

11. Page 3, line 8.

Strike: "subsection"

Insert: "subsections"

Following: "(2)"

Insert: "and (3)"

12. Page 3, line 13.

Following: "fee"

Insert: "of \$1 for each ton of solid waste generated in a
different region and incinerated or disposed of at the
facility."

13. Page 3, line 14 through line 11, page 4.

Strike: Page 3, line 14 through line 11, page 4 in its entirety

Insert: "(2) The fee provided in subsection (1) must be waived
if the department"

14. Page 4, line 14.

Strike: "the"

Insert: "Montana's"

Following: "safety,"

Strike: "and"

15. Page 4, line 15.

Following: "welfare"

Insert: ", "

Following: "and"

Strike: "the"

16. Page 4, lines 17 through 25.

Strike: subsection (b) in its entirety

Insert: "(3) The incineration or disposal of solid waste at a licensed facility in the manner and quantity incinerated or disposed of before [the effective date of this act] is exempt from the solid waste management fee."

Renumber: subsequent section

17. Page 5, line 14.

Following: "2"

Strike: "and"

Insert: ", "

Following: "this part"

Insert: ", and [section 5]"

18. Page 8.

Following: line 3

Insert: "(4) This section does not relieve an owner or operator of a facility that incinerates 70 tons or less of solid waste a day from the obligation to obtain any permit otherwise required under this chapter or rules implementing this chapter.

NEW SECTION. Section 6. Civil penalties. (1) A person who violates any provision of this part, a rule adopted under this part, or a license provision is subject to a civil penalty not to exceed \$1,000. Each day of violation constitutes a separate violation.

(2) The department may institute and maintain in the name of the state any enforcement proceedings under this section. Upon request of the department, the attorney general or the county attorney of the county where the violation occurred shall petition the district court to impose, assess, and recover the civil penalty."

Renumber: subsequent sections

19. Page 9, lines 1 through 3.

Strike: "recommendations" on line 1 through "interregional"

Insert: "a waiver of"

20. Page 10.

Following: line 8

Insert: "Section 9. Section 75-10-214, MCA, is amended to read:
"75-10-214. Exclusions -- exceptions to exclusions. (1)

This part may not be construed to prohibit a person from disposing of his own solid waste generated in Montana upon land owned or leased by that person or covered by easement or permit as long as it does not create a nuisance or public health hazard.

(2) The exclusion contained in subsection (1) of this section does not apply to a division of land of 5 acres or less made after July 1, 1977, which falls within the definition of subdivision in Title 76, chapter 4, part 1, or the Montana Subdivision and Platting Act in Title 76, chapter 3. ""

Renumber: subsequent sections

21. Page 10.

Following: line 21

Insert: "(3) [Section 6] is intended to be codified as an integral part of Title 75, chapter 10, part 2, and the provisions of Title 75, chapter 10, part 2, apply to [section 6]."

22. Page 11, lines 3 through 6.

Strike: "dates" on line 3 through "are" on line 6

Insert: "date. [This act] is"

BILL STATUS SYSTEM
RPT 52

STATE OF MONTANA
MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
CURRENT STATUS OF ALL BILLS EVER REFERRED TO (S) NATURAL RESOURCES

PAGE NBR..... 51
TIME: 12:33
DATE: 05/02/89

CHAIRMAN--TOM KEATING
SECRETARY--HELEN McDONALD
NORMAL SCHEDULE==> SITE: ROOM 405

COMMITTEE--(S) NATURAL RESOURCES
DAYS: M,W,F TIME: 1:00 P.M.

OFFICE--

REFER

NOTE: BILL WILL BE LISTED TWICE IF REREFERRED BACK TO THE SAME COMMITTEE

BILL ==== DATE === LATEST DATE/ACTION ON BILL =====

HB 727	02/28	04/12--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/12/89
		SPONSOR: MARKS, BOB	TITLE-SETS REQUIREMENTS FOR MONITORING WELL STANDARDS AND LICENSES
HB 752	R 03/31	04/28--(H) TRANSMITTED TO GOVERNOR	
		SPONSOR: RANEY, BOB	TITLE-SOLID WASTE MANAGEMENT FEE
HB 757	R 03/31	04/24--(H) TRANSMITTED TO GOVERNOR	
		SPONSOR: GIACOMETTO, LEO	TITLE-CREATING AN AGRICULTURAL CHEMICAL GROUNDWATER PROTECTION PROGRAM
HJ 9	02/28	03/28--(H) FILED WITH SECRETARY OF STATE	
		SPONSOR: MERCER, JOHN	TITLE-AFFIRMS FLATHEAD BASIN COMMISSION'S OPPOSITION TO CABIN CREEK COAL MINE
HJ 18	02/28	03/28--(H) FILED WITH SECRETARY OF STATE	
		SPONSOR: MENAHAN, RED	TITLE-URGES EPA TO REVISE LANDFILL REGULATIONS AND CONGRESS TO FUND IMPLEMENTATION
HJ 23	02/28	04/06--(S) FILED WITH SECRETARY OF STATE	
		SPONSOR: COBB, JOHN	TITLE-URGE REVIEW AND REVISION OF PRESCRIBED BURN POLICY
HJ 25	02/28	03/22--(H) FILED WITH SECRETARY OF STATE	
		SPONSOR: BROWN, DAVE	TITLE-RESOLUTION URGING CLEAN COAL TECHNOLOGY
HJ 29	02/28	03/30--(H) FILED WITH SECRETARY OF STATE	
		SPONSOR: RANEY, BOB	TITLE-OPPOSING CONGRESSIONAL LEGISLATION AUTHORIZING COAL SLURRY PIPELINES

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Thomas F. Keating, on March 8, 1989, at
1:00 p.m., Room 405, of the State Capitol.

ROLL CALL

Members Present: Senators: Thomas Keating, Larry Tveit,
Fred Van Valkenburg, Loren Jenkins, Darryl Meyer,
Lawrence Stimatz, Pete Story, Elmer Severson, Cecil
Weeding, Dorothy Eck, and Jerry Noble

Members Excused: None

Members Absent: Senator Bill Yellowtail

Staff Present: Bob Thompson and Helen McDonald

HEARING ON HB 540

Presentation and Opening Statement by Sponsor:

Representative Bob Raney, District #82, sponsored this bill for the purpose of making the existing law do what has always been intended: that approval of the plan must be received before construction can begin.

List of Testifying Proponents and What Group they Represent:

Julia Page, Yellowstone Raft Company
Betty DeWeese, Gardiner, Montana
Linda Stoll-Anderson, Lewis & Clark County Commissioner
Dan Frazer, Dept. of Health & Environmental Sciences

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Julia Page submitted written testimony. (Exhibit #1)

Betty DeWeese is deeply disturbed with events that are occurring in the upper Yellowstone valley. In the last three years the Church Universal and Triumphant has applied for sewer and water permits and has proceeded to clear, dig, and place piping systems in the upper Yellowstone valley without the required environmental

Senator Stimatz asked about the definition of a small public water system as being less than ten service connections?

Representative Cocchiarella said the rulemaking process of the Department of Health and Environmental Services (DHES) will make sure that these are small systems.

Senator Jenkins asked why change "less than ten" to "small"? Why not keep "less than ten" in there?

Dan Fraser said the reason for that language was to make sure that the department was only delegating the review of non-community public systems such as bars, restaurants, etc. The department would also like flexibility to delegate review of extensions of existing public systems. This act only covers public systems which serve at least 25 people a day, for a minimum of 60 days a year.

Senator Keating said the language for the public sewage system says "serves 10 or more or 25 or more". That is almost a dual definition within a single definition. Does the department make a determination of size on its own?

Dan Fraser said there are two types of public systems, community and non-community. A bar or restaurant outside the city limits that has its own water system and serves 25 or more people a day for a minimum of 60 days out of the year would be a non-community system. A subdivision that had 10 or more homes and its own water supply would be a community system.

Mr. Fraser said the department doesn't review anything that isn't public. This bill gives the department more flexibility to delegate more review than it had before.

Senator Eck asked how many local governments have the expertise to do the necessary reviews?

Mr. Fraser answered maybe one or two small governments would be interested and probably a half-a-dozen county health departments have the expertise to do non-community systems and extensions.

Closing by Sponsor: Representative Cocchiarella closed by saying this is a simple small business bill and she hopes that the committee passes it.

The hearing on HB 482 is closed.

Presentation and Opening Statement by Sponsor:

Representative Ed Grady introduced this bill regarding contaminated groundwater and leaking landfills. He stated that cleanup is expensive and time consuming. The potentially hazardous nature of solid waste landfills calls for implementation of systems monitor the extent of groundwater contamination caused by leakage.

Representative Grady said this bill will establish appropriate requirements for groundwater monitoring at municipal solid waste landfills that serve a population of 5,000 or more. The Department of Health and Environmental Sciences (DHES) will establish a priority list identifying sites which pose the greatest risk. This bill will require owners and operators with high priority sites to submit proposed plans to DHES for groundwater monitoring by January 1, 1991. All other sites must comply by January 1, 1992. Representative Grady handed out a list of the present landfill dumps that are monitoring now (the ones that are highlighted) and the ones showing leaking from contaminated groundwater. (Exhibit #4) There was a concern about how the county was going to pay the cost of putting in wells and the monitoring. He thought the cost would be passed on to the people in the landfill district who use the landfill. An amendment was passed out for the committee's consideration. (Exhibit #5)

List of Testifying Proponents and What Group they Represent:

Chris Kaufman, Montana Environmental Information Center
Will Selser, Lewis & Clark County Health Dept.
Stan Bradshaw, Trout Unlimited
Lorna Frank, Farm Bureau
Max Bauer, Jr., Browning Ferris Industries
Jim Leiter, Dept. of Health & Environmental Sciences

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Chris Kaufman said this bill will give the community information about the quality of their drinking water. This bill affects landfills serving a population of 5,000, or more which is about 28 of Montana's landfills. Only 11 landfills have a monitoring system in place and about 6 would have a system that would be adequate to meet the requirements of the bill. She assumes that of the 110 landfills operating in Montana,

about 50 or more are leaking. The landfills are not always sited well and contain a certain amount of moisture that leaches through the soil to the groundwater.

Will Selser said Lewis & Clark County is spending \$10,000 a year on monitoring landfills. He thinks this bill addresses a fairness issue to the people running landfills and the people who live around those landfills. When groundwater is contaminated, it is expensive to get cleaned up and to make drinking water safe.

Stan Bradshaw said he has an interest in this bill because groundwater often becomes surface water and poses a threat to fisheries.

Lorna Frank is concerned about groundwater pollution and feels that all reasonable management efforts should be directed to prevent contamination. She said monitoring landfills could prevent contamination.

Max Bauer, Jr.'s company operates 90 landfills in the United States. He supports the bill but not the amendment because of the restriction for wells of 100 foot depths. He doesn't think that is adequate monitoring to protect the environment. Mr. Bauer stated the DHES should evaluate each site separately and based on the hydrology and geology, make recommendations.

Questions From Committee Members:

Senator Stimatz asked if the department prepared the bill.

Jim Leiter said he prepared the fiscal note but not the bill.

Senator Stimatz asked about Butte's landfill.

Mr. Leiter said some tests for contamination were made at Butte's local landfill. Butte's landfill does not have an ongoing monitoring system. If this legislation passes, the city would be required to put in a groundwater monitoring system.

Senator Stimatz wondered if Butte was under any time pressure to close the landfill.

Mr. Leiter said the constraint of the existing Butte landfill is a lack of cover material. If the city has to bring in cover soil from another site, it could be very expensive. He said future federal regulations will require

SENATE COMMITTEE ON NATURAL RESOURCES

March 8, 1989

Page 6 of 13

groundwater monitoring. The urgency in Butte to move to a new site is because the community does not want to spend a lot of money monitoring a site that is full.

Senator Story asked about Helena's landfills.

Will Selser said the city has a landfill inside city limits and the county has one on the west edge of town. They both have used up their capacity. The city and county are in the middle of a joint venture to find a landfill to serve both entities. The commissioners are looking at three sites now and will choose one. The public deserves to know what may have been put into their drinking water. Some of the contaminants coming from landfills can have a very significant impact on people's health. He said if one landfill has to be monitored, then equal treatment should be given to all landfills.

Senator Story asked why a landfill has to be monitored if it is over a thousand feet deep and there are no homes within 10 miles?

Mr. Selser said if a qualified hydrologist or geologist looks at the landfill and finds no reasonable basis for determining that the landfill is polluting groundwater, then the landfill will be exempted.

Senator Story asked if the Drake amendment applies to this bill.

He explained that any law enacted by the legislature that requires a local government unit to perform a service or facility requiring the direct expenditure of additional funds must provide a specific means to finance the service or facility. This law is not effective until funding has been decided.

Mr. Selser said that landfills are set up as districts. If the cost of monitoring is expensive enough to cause the operating to go up significantly, then the county commissioners can set or increase the fees assessed to its customers.

Senator Weeding asked if some contamination was discovered in the monitoring process, then what would happen?

Mr. Selser replied it would depend on the kind of contamination. The worst possible case would be to find volatile organic chemicals in the landfill. If these chemicals are found in significant quantities, that exceed the maximum contaminant levels or even approach them, the operators would have to expand their monitoring, begin to

look at mitigation, and also provide alternate water supplies.

Senator Jenkins asked about the Federal Hazardous Waste Act? Doesn't that act preclude people from putting hazardous waste into landfills?

Mr. Selser answered that it is impossible to control every gallon jug and other material that comes into a landfill. If a person wants to get rid of hazardous material, he can put it inside a black plastic bag inside regular household garbage and the landfill operator won't see it.

Senator Weeding asked who was liable for landfills? If this bill fails, can you monitor your own landfill anyway?

Mr. Selser said the operator could be personally liable for the landfill. In the last few years, the courts have not exempted government officials for their actions. The average person or district generally will not voluntarily monitor landfills because of the cost.

Senator Eck said there was talk about setting up "amnesty days" when people who have small quantities of hazardous waste could bring it to the landfill.

Mr. Selser answered that Seattle tried "amnesty days" and abandoned the idea because people attempt to dump illicit materials in the landfill about three days after a two-day amnesty because they forget to do it during the amnesty period. He said the only way "amnesty days" would work is to have them in conjunction with an ongoing program where people can dump their hazardous waste at a reasonable cost.

Senator Eck said there has been talk about recycling centers taking care of wastes and pesticides?

Mr. Selser said he could not answer about the recycling of pesticides but there are hazardous materials that can be recycled. An example would be a degreaser used in automotive shops. There is a simple, inexpensive distilling process that these businesses can use to recycle the solvent rather than dumping it on the ground or in the landfill.

Senator Jenkins said some small-town dumps have been closed and the waste goes to a larger landfill that serves more than one town.

Jim Leiter said in the last 15 years there has been a lot of consolidation probably from 500 sites to 200 sites.

SENATE COMMITTEE ON NATURAL RESOURCES

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Senator Keating asked if a corporation was required under the permitting process to put in groundwater monitoring wells for private use.

Max Bauer said his corporate requirements are probably 200% to 300% more stringent than any state or federal standards because of the liability in business. His corporation doesn't buy existing sites anymore. Instead it buys new sites and makes extensive hydrology and geology studies. Landfill businesses cannot afford to make mistakes with groundwater.

Senator Keating Mr. Bauer if he supported the amendment.

Max Bauer said he supported the amendment because he doesn't agree with four wells and hundred foot depth limitations. They are not adequate.

Senator Keating asked if Mr. Bauer would recommend solid waste disposal as an industry for privatization?

Max Bauer said yes.

Senator Keating said this bill gives the department additional authority to require local governments to expend money to monitor groundwater around suspected contaminated landfills. Has the department figured out a way to pay for this service?

Steven Pilcher from the Water Quality Bureau said the costs have to be passed onto the user. There are not any state grant or loan funds available for the solid waste programs.

Senator Keating wanted to know if the Helena Valley or the county landfill made application through the Department of Natural Resources for a resource indemnity trust grant for a hydrology study in the valley?

Mr. Leiter It was a \$100,000 grant from the RIT and is projected for funding.

Senator Keating asked if the department was aware of any other grant applications or requests by local governments for Resource Indemnity Trust or renewable resource interest funds for solid waste reclamation.

Mr. Leiter said the state water quality bureau has \$80,000 in funds from the federal government for groundwater monitoring and several communities are interested in applying for those funds.

Senator Keating wondered if the federal money is for water wells for monitoring or is it federal grant money for landfill monitoring.

Mr. Leiter said these funds are available through the Environmental Protection Agency to administer a groundwater control program in Montana. They could fund some monitoring of ground water in conjunction with mining operations .

Senator Keating noted the price tag in the fiscal note.

Mr. Leiter said the department estimated a hydrologist and a half-time clerical person would be needed in our fiscal note.

Senator Keating asked about the overall program cost for local governments?

Mr. Leiter said the Department of Commerce assisted in doing the fiscal note and they had a figure for a number of different scenarios. Presumably, there are 29 landfills that fall under the 5,000 population requirement. Six are adequately monitoring now. That leaves 23, though some of those would not have to monitor at all.

Senator Keating said to assume 20 sites at \$30,000 a piece.

Mr. Leiter said if all 29 landfills are exempt, it would cost all those communities \$145,000. If all 29 landfills needed monitoring, the cost would be \$890,000 and that is based on a \$30,000 installation cost. Some landfills will be leaking, others won't.

Senator VanValkenberg said if the monthly landfill disposal rate for a residential customer is \$9.20, how much of that amount would be for groundwater monitoring?

Max Bauer said it makes a difference depending on the size of the landfill and the equipment used. The monitoring is the same for 100 acres as for a 400 hundred acre site. His corporation contracts a firm to come in to check its wells, and the yearly operating expense in Missoula is about \$20,000.

Senator Van Valkenburg said he pays \$9.20 a month for services. There are four members in his family so they are each paying 2.5 cents a month for this monitoring.

Max Bauer said his firm has probably 100 projects going on in the United States. The monitoring is a significant factor originally but over the long term, it's not real big compared to other costs.

SENATE COMMITTEE ON NATURAL RESOURCES

March 8, 1989

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Senator Jenkins said, in reading Section 3 of the rules, it looks like this bill could have been accomplished with rulemaking authority.

Mr. Leiter said the solid waste program has 1.5 people. The department has known for a year that 25 landfills are probably leaking into the groundwater. To pass these kinds of requirements by rulemaking would be nearly impossible.

Senator Jenkins asked if this bill has been through the appropriations committee?

Mr. Leiter answered no.

Senator Keating said this bill wasn't talked about in the department's current budget either.

Mr. Leiter said HB 752 might advance the department money through a fee system for landfills.

Senator Weeding asked about the subtitle that was mentioned.

Max Bauer said subtitle D is the new federal regulations that will be out by September. The monitoring requirements for landfills will have to be or the landfill will be forced to close.

Senator Weeding asked if this bill is passed, will the state beat the federal rules?

Mr. Bauer said counties will have a chance to get some sites cleaned up. If a site is closed before the subtitle D rules go into effect and nothing shows up, the federal government will forget it existed. If the site is operated past that date, then funds must be furnished to cover 30 years of monitoring.

Hearing is closed on HB 486.

EXECUTIVE ACTION

HB 540

HB 540 was sponsored by Representative Raney. Senator Eck moved HB 540 be concurred in. Motion carried unanimously.

HB 482

HB 482 was sponsored by Representative Cocchiarella. There was no opposition to allowing the department to make some discretionary determination on public sewers and water systems. Senator Meyer moved HB 482 be concurred in. The motion carried unanimously.

HB 680 Senator Keating said HB 680 sponsored by Representative

ROLL CALL

NATURAL RESOURCES COMMITTEE

5054 LEGISLATIVE SESSION -- 1989

Date 3-8-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz	✓		
Senator Pete Story	✓		
Senator Bill Yellowtail		✓	
Senator Elmer Severson	✓		
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By THOMAS F. KEATING, on MARCH 15, 1989, at 1:00 pm. Room 405, of the State Capitol

ROLL CALL

Members Present: Senators: Thomas Keating, Larry Tveit, Fred VanValkenburg, Loren Jenkins, Darryl Meyer, Bill Yellowtail, Cecil Weeding, Dorothy Eck, Jerry Noble and Larry Stimatz.

Members Excused: Pete Story and Elmer Severson

Members Absent: None

Staff Present: Bob Thompson and Helen McDonald

HEARING ON HJR 29

Presentation and Opening Statement by Sponsor:

Representative Bob Raney, District #82, sponsored HJR 29 and stated there is legislation pending before Congress to grant the right of eminent domain for coal slurry pipelines. Coal is not the objective, water is the objective. The Montana coal fields and Wyoming coal fields are situated very close to the water that is desired to be put into the pipelines. The pipelines vary in size from 2 to 14 inches depending on who one listens to. As time goes on, the pipes begin to wear out from the friction caused by coal. At some point they become usable only as a water line. Thus, Representative Raney believes the objective is not to move coal but to move water.

Representative Raney added that water would be taken from the Madison formation and from the Yellowstone and Powder River drainages to move the coal south out of Montana to Wyoming. Montana water may also be used to move Wyoming coal. This resolution merely asks the Montana delegation in Washington and the Federal Departments of Interior and Transportation not to pass legislation until Montana has the opportunity to adjudicate its water.

List of Testifying Proponents and What Group they Represent:

tried to be diplomatic. Then the winds came and the ranchers panicked trying to save their buildings and homes. Time after time, the local people would say "put the fire out". People tried to be polite all summer but they had some serious problems and got nowhere. The fire was an environmental disaster.

DISPOSITION OF HJR 23

Hearing is closed on HJR 23.

EXECUTIVE ACTION (HB 486)

House Bill 486 has an amendment dated March 8th (Exhibit #8) and a fiscal note. Senator Noble moved the amendment and it passed.

Senator Noble moved that HB 486 be concurred in as amended.

Senator Keating wondered if there was any chance of changing the funding on bill to Resource Indemnity Trust Fund money.

Senator Eck thought that could be considered as a proposal for the next round.

Senator Keating asked if this legislation is enacted, where is the appropriation bill? Will this go into the big general government appropriation bill or is it in there now?

Jim Leiter, Department of Health & Environmental Sciences, didn't know.

Senator Van Valkenburg thought the cost of implementing this legislation will not be something paid for by the state of Montana. The customers of the individual landfill providers will pay the cost.

Senator Keating asked if there were provisions for fees to be charged to counties and towns.

Jim Leiter assumed the department included fee considerations and budget needs in its appropriation request. The department has written a fiscal note for a position and one-half assuming that it will come out of the general fund.

Senator Keating asked if the bill provided for rules and regulations by the department for the charging of fees.

Representative Grady said he understands the department will pass the cost on to the counties.

SENATE COMMITTEE ON 'NATURAL RESOURCES

March 15, 1989

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Senator Keating asked if general fund money will be used initially for this bill? Will there be a flow into the state's revenue from the fees charged to replace the general fund money?

Jim Leiter said there would not be unless one of the other bills has a fee system for solid waste systems. This particular piece of legislation doesn't have any way of returning that general fund money for state staff back to the state.

Senator Keating asked if either current law or this legislation gives the department authority to promulgate fees for this service to the counties? It's not a service, it's really a regulation that will be imposed on the counties to have monitoring wells around their landfills. Is it the department's idea to charge a fee?

Jim Leiter answered that the cost of any services incurred over the actual installation of monitoring wells presumably will be borne by the user of the landfill service --a member of the refuse district.

Senator Keating said that means the counties and towns are going to do their own monitor well drilling, etc. The only thing the department will provide are experts who can provide data to the counties.

Jim Leiter said the department will provide data to the counties and will approve plans made for the installation of those required wells. Under existing regulations, counties must get department approval for landfills.

Senator Keating said general fund money will pay for the two FTEs that will go to the department for those purposes. But the department will not charge anything back to the counties to recover the costs of the two FTE's.

Jim Leiter agreed.

Senator Jenkins asked if the department had spending authority for these FTE's anyplace else.

Jim Leiter said this legislation was not a department bill and the department hasn't requested it. He assumed that the department included the funding in its general appropriations request for these 2 FTEs.

Senator Eck stated that the fiscal note says this bill will be funded from the general fund unless legislation is passed approving a fee schedule. Is there another bill that does that?

SENATE COMMITTEE ON NATURAL RESOURCES

March 15, 1989

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Jim Leiter answered that HB 752 would provide a fee system for solid waste management systems.

Senator Eck said laboratory costs will be \$600 per sample. Is it possible to recoup some money by increasing the laboratory fee?

Jim Leiter said laboratory fees will be paid to private laboratories and some state labs based on EPA requirements.

Senator Noble moved again that HB 486 be concurred in as amended. Motion carried.

HB 657

Senator Jenkins moved that HB 657 bill be concurred in

Senator Keating noted that this is Representative Owens' bill.

Senator Eck has a question about page 13 of the bill. The sentence reads: "In addition, a fee of 60 cents for each 1,000 board feet (log scale) or equivalent must be charged if products other than logs are cut." She thought this could be interpreted to say that that charge would only be made if a product other than logs were cut.

Senator Keating recalled that one of the foresters said this language does what they want it to do.

Senator Eck recalled the forester said they intended to pay 60 cents for each 1,000 board feet or the equivalent must be charged if they are not logs, which is Christmas trees. However, she thinks the bill as written says that the charge will only be on products other than logs.

Senator Van Valkenburg suggested asking Mark Simonich (a forester) for help on this interpretation.

Mark Simonich said he acted as chairman of the task force that put this bill together. The intent on the part that Senator Eck is referring to "60 cents per thousand on all saw logs that are produced" is to collect that amount. The part that refers to "equivalent forest products" simplifies the act rather than going into detail and saying the cost would be so much for posts, rail, and so much for Christmas trees. The intent was to allow that the department by rule to have a basis for collecting the deposits on any other type of product. Our intent was that through the rules an actual rate could be set up.

ROLL CALL

NATURAL RESOURCES COMMITTEE

50~~54~~ LEGISLATIVE SESSION -- 1989

Date 3-15-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz	✓		
Senator Pete Story			✓
Senator Bill Yellowtail	✓		
Senator Elmer Severson			✓
Senator Cecil Weeding	✓		✓
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Thomas F. Keating, on April 5, 1989, at
1:00 p.m., Room 405, in the State Capitol.

ROLL CALL

Members Present: Senators: Thomas Keating, Larry Tveit,
Fred Van Valkenburg, Loren Jenkins, Lawrence Stimatz,
Pete Story, Cecil Weeding, Dorothy Eck and Jerry Noble.

Members Excused: Senators: Darryl Meyer, Bill Yellowtail
and Elmer Severson

Members Absent: None

Staff Present: Bob Thompson and Helen McDonald

Announcements/Discussion: None

HEARING ON HB 757

Presentation and Opening Statement by Sponsor:

Representative Leo Giacometto, District #24, sponsored this bill establishing an agricultural chemical ground water protection program administered by the Department of Agriculture and the Department of Health and Environmental Sciences. He noted that this measure has had a lot of amendments. It has been worked into the water quality act with approval of the Departments of Agriculture and Health and Environmental Sciences. As it now stands, the governor's office supports the bill.

List of Testifying Proponents and What Group they Represent:

Pam Langley, Mont. Agriculture Business, Mont. Farmers
Union, Mont. Grain Elevator Assn.
Everett Snortland, Mont. Department of Agriculture
John Semple, Montana Aviation Trades Association
Chuck Merja, Mont. Grain Growers Assn.
Lorna Frank, Farm Bureau
Nancy Matheson, Alternative Energy Resources
Organization
Chris Kaufman, Montana Environmental Information Center

Jim Leiter said the waste found outside the hospital was normal hospital waste, not infectious waste. The waste was probably put into a trash bag and dragged out by a dog or kid. The bag was torn open and strewn along the street.

Senator Story asked why mortuaries were exempted?

Representative Raney said in other states blood has to be contained and hauled off to a facility that treats sewage. In rural Montana this waste is just going out to the drain fields, which may or may not be proper. So instead of exempting them permanently, he thought they should come back next session and show why they should be exempted permanently.

Closing by Sponsor: Representative Raney closed by saying he definitely tried not to create any serious problems for Montana's medical community. However, this measure says that medical waste must be managed correctly.

HEARING ON HB 752

Presentation and Opening Statement by Sponsor:

Representative Raney sponsored this bill because he wanted to severely restrict the importation of garbage into Montana. All this bill currently does is put a \$1.00 fee on every ton of garbage imported into Montana that is not now under some form of contract. Currently, some garbage comes into Montana from Idaho. An air quality permit is also required for the burning of anything over 70 tons capacity per day.

Currently a Montanan or a Montana corporation can dispose of solid waste on his own property if he generates the waste. Under this bill, residents can continue to dispose of waste on their private property but that waste must have been generated in Montana. Any waste generated outside the state will be regulated.

List of Testifying Proponents and What Group they Represent:

Chris Kaufman, Montana Environmental Information Center
Kim Wilson, Sierra Club

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Chris Kaufman liked this bill better when it included more fees and regulated dumping in Montana. She thinks the bill is a start. The fees generated when waste comes in from out of state will get some money from out-of-state people and will help regulate the disposal of waste.

Kim Wilson supports this measure because it addresses some problems in Montana associated with the importation of waste. This bill is a timely response to that growing problem.

Questions From Committee Members: Senator Eck asked if this bill prohibits waste coming from another state, or does it just charge a fee?

Representative Raney said the fee will be \$1.00 a ton and, if large amounts are brought in, it will provide money for the department to employ a person to make sure that the importers comply with Montana's rules and regulations.

Senator Story expressed concern that the incinerator at Livingston should not accept any more out-of-state waste. He wants to have a moratorium in the bill until the new rules are in place.

Representative Raney said an infectious waste moratorium is in HB 676. Yellowstone Park currently sends refuse to Livingston. He doesn't want any new permits issued until the rules are in place.

Senator Keating asked the reason for the immediate effective date on this bill and HB 676.

Representative Raney said that was necessary to provide time to write the rules and regulations.

Closing by Sponsor: Representative Raney closed.

Hearing is closed on HB 752.

ADJOURNMENT

Adjournment At: 2:45 p.m.

50th LEGISLATIVE SESSION -- 1989Date 4/1/89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer		✓	
Senator Lawrence Stimatz	✓		
Senator Pete Story	✓		
Senator Bill Yellowtail		✓	
Senator Elmer Severson		✓	
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

DATE 4-5-89COMMITTEE ON NATURAL RESOURCES

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Larry Rosenberg	Wife	HB 757	✓	
Jack Brunner	M W R A	*	✓	
John Sample	M A T A	HB 757	✓	
W. Ireland	Headwaters Ag Committee	HB 757	✓	
Stockton & Polly White	CAP	HB 676	✓	
Pam Langley	Mt. Farmers Union Mt Ag Business, Mt. Grain Elevator	H 757	✓	
Chuck Mexja	Mt Grain Growers Assn	H 757	X	
Max Montgomery	Livingston Residents	HB 676	✓	
Dan Porter	CAP	HB 676	✓	
MAX Bauer Jr	Brown, Ferris & Co.	HB 676	✓	
Everett Whitland	Mt. Dept Ag	HB 757	✓	
Bill Rhodes	MS	HB 757		
Roger Lipson	Mt Dental Assoc	676	Amend	
Bonnie Lippy	MT Funeral Directors	676	amend	
Henry Matheson	AERO	757	✓	
Jim Ahn	Mt. Hospital Assoc	676	✓	
Robert Kestling	Montana Dental Assoc	676	Amend	
Wm E. Zapp	Montana Dental Association	676	Amend	
Kim Wilh	Siena Club	676 757 757	✓	
Lerna Frank	Farm Bureau	HB 757	✓	
Martin Skinner MD	Mt. MED Assn	HB 676	✓	
See Weingarten	Mt seed warehouse Contractors	HB 676	✓	
Don Ingels	Mt Chamber of Commerce	HB 752 676	Monitor	
Chris Kaufmann	MEIC	HB 752 676	✓	
Chris Kaufmann	MEIC	757	✓	
Marvin Barber	H P H	757	✓	

(Please leave prepared statement with Secretary)

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Thomas F. Keating, on April 10, 1989, at 1:00 p.m., Room 405, in the State Capitol.

ROLL CALL

Members Present: Senators: Thomas Keating, Loren Jenkins, Loren Stimatz, Pete Story, Bill Yellowtail, Cecil Weeding, Dorothy Eck, and Jerry Noble.

Members Excused: Senator Larry Tveit

Members Absent: Senators: Fred Van Valkenburg, Darryl Meyer, Elmer Severson.

Staff Present: Bob Thompson and Helen McDonald

EXECUTIVE ACTION

HB 757

Senator Weeding moved HB 757 be concurred in. Motion carried.

HB 752

Senator Story said HB 676 and HB 752 were inspired by a problem in Livingston.

Senator Story moved amendments to HB 752 that provided for local approval of disposal of waste generated from outside the region and established a moratorium on out-of-state waste.

Bob Thompson explained the amendments. Mr. Thompson added that federal commerce clause concerns exist with each amendment, but that the significant commerce clause problem would occur with a permanent ban on transporting waste into Montana, which Senator Story is amending.

Senator Jenkins asked if amendments (Exhibits #1 and #2) would coordinate.

Bob Thompson said the amendments would coordinate.

Senator Story moved amendments #1 and #2. Motion carried on #1.

Senator Keating asked for discussion on amendment #2.

Senator Noble asked if it would be illegal if someone brought a load of junk tires into Montana and dumped them?

Senator Story said it might be illegal if the tires were dumped in a landfill.

Senator Noble said getting rid of tires is a big problem. It's getting to be a big business because tires are difficult to dispose of.

Senator Story said there are ways of getting around this law. Someone can buy some cheap property somewhere and put up a sign "used tires for sale".

Motion carried on amendment #2.

Senator Keating asked about the fee of \$1.00 a ton on solid waste and wondered if it shouldn't be higher.

Senator Story said there is some interregional business going on. The state cannot charge a higher fee without interfering with present practices.

Senator Keating asked if the department will get a FTE for this bill.

Senator Story said no, but the department would get an FTE with the infectious waste bill, which has not passed the committee yet.

Senator Story made a motion that HB 752 as amended be concurred in. Senator Tveit and Senator Noble voted no. Motion carried.

HB 676

Bob Thompson said there are two sets of amendments. Representative Raney's amendment (Exhibit #3A) and Montana Dental Association's amendment. (Exhibit #3B)

Senator Keating asked Bonnie Tippy, Montana Funeral Directors, about her objection to mortuaries being included in this act. Mortuaries will be exempt from this bill until 1991. Senator Keating asked her for some research with regard to the controls on morticians.

Bonnie Tippy said funeral homes are now regulated by at least three entities: the State Board of Morticians, OSHA, and the Federal Trade Commission. There is not much infectious waste that comes from funeral homes now. Everything is almost sterile before it leaves the funeral home. The amendment (Exhibit #3D) would take care of a significant problem. On page 11, there was a House amendment offered by the health department. The Department of Health and Environmental Sciences was concerned that someone would dump hazardous or infectious waste in the sewage system. This amendment also included funeral directors, and the mortuaries, which would require holding tanks in order to do embalming. That is basically what the morticians want amended. Mortuaries generate very little infectious waste.

Senator Keating asked if HB 752, which prohibits outside waste, includes infectious waste? The intent of HB 676 would be to start establishing rules and regulations for the handling of infectious waste instate. Senator Keating commented on Senator Story's remark that "if we passed HB 752, we may not need HB 676". He wondered about that.

Senator Story remarked that the people of Livingston were concerned that HB 752 would not prevent the importation of infectious waste. Senator Story said the amendment will prevent new waste from coming into the state. HB 752 will significantly reduce the amount of plastic that is being burned in Livingston's incinerator and that was the resident's concern. The Montana legislature will probably be passing an infectious waste bill two years from now because probably the Environmental Protection Agency and Congress will require it. If the legislature doesn't pass this bill this session, then they will have two years to do it in the cheapest and most practical way, which will be in accordance with Congress.

Senator Keating said it seemed to him the infectious waste legislation was drafted primarily with a local issue in mind and was trying to involve other parts of the state. Senator Keating said the testimony of the medical people was that, if infectious waste was managed by state rules and regulations, it would increase the cost of hospitalization, particularly in the smaller hospitals. It seemed to him that the bill was focused on doctors, dentists, and medical people who are the generators of infectious waste because they are taking care of sick people. He commented that the medical people are healing the sick and generating a waste product and disposing of it in a way that is not causing more sick people. Senator Keating doesn't see the need for starting a statewide regulatory body over something that isn't causing a problem.

SENATE COMMITTEE ON NATURAL RESOURCES

April 10, 1989

Page 4 of 5

Senator Noble agreed with Senator Keating's comments. Most of the hospitals in the state are losing money and this legislation would charge the hospitals \$2,000 for 5 tons of infectious waste. Senator Noble felt this was excessive regulation.

Senator Yellowtail asked to hear from Chris Kaufman.

Chris Kaufman said no one was aware that this bill, when first drafted, would impact funeral directors. The drafters did not know exactly what kinds of waste were generated by morticians and it was decided to exempt them until more was known about the impact of the industry. She stated that only five or six hospitals in Montana would be charged the \$2,000 fee and the charge for the smaller hospitals would be \$250.

Senator Jenkins asked about the impact of this fee on smaller hospitals?

Chris Kaufman said she contacted Jim Ahern in regard to this situation. With Representative Raney's amendment, the hospitals can continue their current practice of disposing waste in landfills.

Senator Jenkins asked about the disposal of animal carcasses?

Ms. Kaufman said that the professional would know whether or not the carcass was infected with a disease that would be harmful to a human being.

Senator Yellowtail moved Representative Raney's amendment. (Exhibit 3A) Motion carried.

Senator Noble moved amendment proposed by the Montana Dental Association. (Exhibit 3B) Motion carried.

Senator Noble moved amendment Senator Keating's suggestion to exempt morticians permanently. (Exhibit 3C) Motion carried. Senator Yellowtail voted no.

Senator Noble moved that HB 676 as amended not be concurred in. Motion carried. Roll call vote. (Exhibit #4)

ADJOURNMENT

Adjournment At: 1:00 p.m.


Thomas F. Keating, Chairman

Amendments to House Bill No. 752

Third Reading Copy

Requested by Senator Story

For the Senate Committee on Natural Resources

April 10, 1989

1. Title, line 12.

Following: "FEE;"

Insert: "REQUIRING LOCAL APPROVAL FOR INCINERATION OR DISPOSAL
OF SOLID WASTE GENERATED OUTSIDE THE REGION;

2. Page 9.

Following: line 3

Insert: "NEW SECTION. Section 6. Local approval required for incineration or disposal of solid waste generated outside the region. (1) An owner or operator of a solid waste management system who proposes to incinerate or dispose of solid waste generated outside the solid waste disposal region in which the facility is located shall, before receiving the waste, apply for and receive approval from the local government or governments having jurisdiction over the facility.

(2) The local government or governments may approve the incineration or disposal of solid waste from outside the region if the local government or governments find that incineration or disposal of the solid waste is consistent with local and state solid waste management goals and results in equivalent or improved protection of public health, safety, welfare, and the environment within the jurisdiction."

Renumber: subsequent sections

4. Page 12, line 22.

Strike: "SECTION"Insert: "Sections"Following: "6"

Insert: "and 7"

Strike: "IS"

Insert: "are"

5. Page 12, line 25.

Strike: "SECTION"Insert: "sections"Following: "6"

Insert: "and 7"

Amendments to House Bill No. 752
Third Reading CopyRequested by Senator Story
For the Senate Committee on Natural Resources
April 10, 1989

1. Title, line 12.

Following: "FEE;"

Insert: "ESTABLISHING A MORATORIUM ON TRANSPORT OF SOLID WASTE
INTO MONTANA;"

2. Page 9.

Following: line 3

Insert: "NEW SECTION. Section 6. Moratorium on certain interstate transport of solid waste. (1) The state of Montana recognizes the importance of providing for disposal or incineration of solid waste in a manner that protects Montana's public health, safety, welfare, and environment. Although the state of Montana also recognizes that, under appropriate conditions, the transportation of out-of-state solid waste into Montana might not conflict with this goal, it is imperative that the state undertake a legislative study of solid waste regulation and management, further develop regional and statewide solid waste management goals and plans, and adopt rules implementing [this act] before solid waste importation beyond current levels is allowed.

(2) Except as provided in subsection (3), a person may not transport solid waste into Montana until October 1, 1991.

(3) A person who transported solid waste into Montana before [the effective date of this act] may continue to transport solid waste into Montana subject to the limitation that the amount he transports into Montana during any calendar year does not significantly exceed the amount he transported into Montana during calendar year 1988."

Renumber: subsequent sections

4. Page 12, line 22.

Strike: "SECTION"Insert: "Sections"

Following: "6"

Insert: "and 7"

Strike: "IS"Insert: "are"

5. Page 12, line 25.

Strike: "SECTION"Insert: "sections"

Following: "6"

Insert: "and 7"

NATURAL RESOURCES

COMMITTEE

50~~5~~¹ LEGISLATIVE SESSION -- 1989

Date 4-10-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	<i>Attn</i>		✓
Senator Fred VanValkenburg		✓	
Senator Loren Jenkins	✓		
Senator Darryl Meyer		✓	
Senator Lawrence Stimatz	✓		
Senator Pete Story	✓		
Senator Bill Yellowtail	✓		
Senator Elmer Severson		✓	
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

SERATE STANDING COMMITTEE REPORT

April 11, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 752 (third reading copy -- blue), respectfully report that HB 752 be amended and as so amended be concurred in:

Sponsor: Raney (Story)

1. Title, line 12.

Following: "FEE;"

Insert: "REQUIRING LOCAL APPROVAL FOR INCINERATION OR DISPOSAL OF SOLID WASTE GENERATED OUTSIDE THE REGION; ESTABLISHING A MORATORIUM ON TRANSPORT OF SOLID WASTE INTO MONTANA;"

2. Page 9.

Following: line 3

Insert: "NEW SECTION. Section 6. Local approval required for incineration or disposal of solid waste generated outside the region. (1) An owner or operator of a solid waste management facility who proposes to incinerate or dispose of solid waste generated outside the solid waste disposal region in which the facility is located shall, before receiving the waste, apply for and receive approval from the local government or governments having jurisdiction over the facility.

(2) The local government or governments may approve the incineration or disposal of solid waste from outside the region, if the local government or governments find that incineration or disposal of the solid waste is consistent with local and state solid waste management goals and results in equivalent or improved protection of public health, safety, welfare, and the environment within the jurisdiction.

NEW SECTION. Section 7. Moratorium on certain interstate transport of solid waste(1) The state of Montana recognizes the importance of providing for disposal or incineration of solid waste in a manner that protects Montana's public health, safety, welfare, and environment. Although the state of Montana also recognizes that, under appropriate conditions, the transportation of out-of-state solid waste into Montana may not conflict with this goal, it is imperative that the state undertake a legislative study of solid waste regulation and management, further develop regional and statewide solid waste management goals and plans, and adopt rules implementing [this act] before allowing solid waste importation beyond current levels.

(2) Except as provided in subsection (3), a person may not transport solid waste into Montana until October 1, 1991.

(3) A person who transported solid waste into Montana before [the effective date of this act] may continue to transport solid waste into Montana subject to the limitation that the amount he transports into Montana during any calendar year does not significantly exceed the amount he transported into Montana during calendar year 1988."

Renumber: subsequent sections

3. Page 12, line 22.

Strike: "SECTION"

Insert: "Sections"

Following: "6"

Insert: "through 8"

Strike: "IS"

Insert: "are"

4. Page 12, line 25.

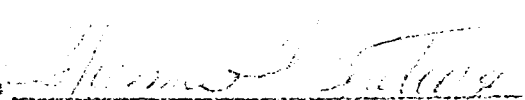
Strike: "SECTION"

Insert: "sections"

Following: "6"

Insert: "through 8"

AND AS AMENDED BE CONCURRED IN

Signed: 

Thomas F. Keating, Chairman

HOUSE BILL NO. 752

INTRODUCED BY RANEY, COHEN, KADAS, O'KEEFE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A SOLID WASTE MANAGEMENT FEE FOR THE INCINERATION OR DISPOSAL OF SOLID WASTE; TRANSPORTED BETWEEN REGIONS; PROVIDING FOR A WAIVER OF THE FEE WHEN THE INCINERATION OR DISPOSAL IS CONSISTENT WITH SPECIFIED CRITERIA; EXEMPTING EXISTING SOLID WASTE INCINERATION AND DISPOSAL FROM THE FEE; ESTABLISHING A SOLID WASTE MANAGEMENT ACCOUNT; ESTABLISHING SOLID WASTE MANAGEMENT REGIONS; PROVIDING PENALTIES FOR FAILURE TO PAY THE SOLID WASTE MANAGEMENT FEE; REQUIRING LOCAL APPROVAL FOR INCINERATION OR DISPOSAL OF SOLID WASTE GENERATED OUTSIDE THE REGION; ESTABLISHING A MORATORIUM ON TRANSPORT OF SOLID WASTE INTO MONTANA; PROVIDING A CIVIL PENALTY AND ADMINISTRATIVE ENFORCEMENT FOR VIOLATIONS OF SOLID WASTE DISPOSAL LAWS AND RULES; PROVIDING ADDITIONAL AIR QUALITY PERMIT REQUIREMENTS FOR CERTAIN SOLID WASTE INCINERATORS; AMENDING SECTIONS 75-10-104, AND 75-10-105, AND 75-10-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATES DATE."

STATEMENT OF INTENT

It is the intent of the legislature that the department of health and environmental sciences adopt rules establishing procedures for the determination and collection

of the solid waste management fee provided for in [section 1] AND FOR THE WAIVER OF THE FEE WHEN CONSISTENT WITH THE CRITERIA PROVIDED IN [SECTION 1(2)]. It is the intent of the legislature that the department be able to use this fee to bolster its solid waste management program in a manner, including the hiring of adequate staff, that will:

(1) protect the public health, welfare, and safety and the environment of Montana;

(2) provide assistance to local governments in meeting the pending federal solid waste management requirements;

(3) develop an effective and coordinated regional approach to solid waste management in Montana; and

(4) ensure a state and local capability to effectively manage the importation of solid waste into Montana for disposal purposes.

It is the intent of the legislature that the board DEPARTMENT of health and environmental sciences have discretion-to-apply-intraregional-fees-to WAIVE THE FEE FOR interregional solid waste incineration or disposal in situations where the incineration or disposal is consistent with state solid waste management goals and results in equivalent or improved protection of the MONTANA'S public health, safety, and welfare and-the, AND environment when compared to the alternative of intraregional incineration or disposal. Fee-reductions-developed-by-the-board--must--apply

1 ~~only--to--the--specific--solid--waste--sources--and--disposal~~
 2 ~~facilities--that--meet--these--criteria--it--is--the--intent--of--the~~
 3 ~~legislature--that--the--department--adopt--rules---providing~~
 4 ~~guidelines--for--recommending--to--the--board--when--such--fee~~
 5 ~~reductions--should--be--approved.~~ THE INCINERATION OR DISPOSAL
 6 OF SOLID WASTE AT A LICENSED FACILITY IN THE MANNER AND
 7 QUANTITY INCINERATED OR DISPOSED OF BEFORE [THE EFFECTIVE
 8 DATE OF THIS ACT] IS EXEMPT FROM THE SOLID WASTE MANAGEMENT
 9 FEE AND FROM THE REQUIREMENT FOR LOCAL GOVERNMENT APPROVAL
 10 UNDER [SECTION 6].

11 It is the intent of the legislature that the department
 12 of health and environmental sciences not issue an air
 13 quality permit for any ~~large-scale---incineration~~ NEW
 14 COMMERCIAL INCINERATOR of solid ~~wastes~~ WASTE AND NOT
 15 AUTHORIZE ANY EXISTING INCINERATOR TO CHANGE THE AMOUNT,
 16 FORM, KIND, OR CONTENT OF THE MATERIAL IT INCINERATES OR TO
 17 INCINERATE ANY MATERIAL THAT WOULD CHANGE THE NATURE,
 18 CHARACTER, OR COMPOSITION OF THE EMISSIONS until the
 19 department and the public have necessary information to
 20 understand the composition and concentrations of the
 21 emissions and until the emissions and projected ambient
 22 concentrations are known to constitute a negligible risk to
 23 the public health, safety, and welfare and to the
 24 environment. FOR A PERMITTED SOLID WASTE INCINERATOR, THE
 25 DEPARTMENT SHALL CONSIDER AN INCREASE IN THE AMOUNT OF

1 MEDICAL WASTE INCINERATED AS SUFFICIENT TO TRIGGER THE
 2 ADDITIONAL PERMIT AND REVIEW REQUIREMENTS PROVIDED IN
 3 [SECTION 5], INCLUDING CONSIDERATION OF EMISSIONS OF
 4 HYDROCHLORIC ACID, COMPOUNDS DERIVING FROM PLASTIC
 5 INCINERATION, AND OTHER HAZARDOUS AIR POLLUTANTS.

6
 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 NEW SECTION. Section 1. Solid waste management fee.
 9 (1) Except as provided in subsection SUBSECTIONS (2) AND
 10 (3), any person who owns an incinerator that burns more than
 11 1,000 tons of solid waste a year or a solid waste disposal
 12 facility that is licensed pursuant to 75-10-221 and rules
 13 adopted under 75-10-221 and that disposes of more than 1,000
 14 tons of solid waste a year shall pay to the department a
 15 quarterly fee OF \$1 FOR EACH TON OF SOLID WASTE GENERATED IN
 16 A DIFFERENT REGION AND INCINERATED OR DISPOSED OF AT THE
 17 FACILITY. that-is-calculated-based-on-the-classification-of
 18 the--disposal--facility;--the--weight--of--the--solid--waste
 19 incinerated--or--disposed-of-at-the-facility;--and--the--origin
 20 of--the--waste;--as--follows:

21 {a}--For-an-incinerator-or-for-a-licensed-facility-that
 22 is-a-Class-I-or-Class-II-disposal-site-under--rules--adopted
 23 pursuant-to-75-10-204,--the--fee--is:

24 {i}--10-cents-a-ton-for-the-incineration-or-disposal-of
 25 waste-generated-within-its-region;--and

1 ~~{i}-\$1-a-ton-for-the-incineration-or-disposal-of-waste~~
 2 ~~generated-in-a-different-region;~~
 3 ~~{b}-For-a-licensed-facility-that-is-a-Class-III~~
 4 ~~disposal-site-authorized-to-accept-only-inert-waste-under~~
 5 ~~rules-adopted-pursuant-to-75-10-204-the-fee-is:~~
 6 ~~{i}-5-cents-a-ton-for-the-disposal-of-waste-generated~~
 7 ~~within-its-region;and~~
 8 ~~{i}-50-cents-a-ton-for-the-disposal-of-waste-generated~~
 9 ~~in-a-different-region;~~
 10 ~~{2}-{a}-For-a-facility-subject-to-subsection-{i}{a},~~
 11 ~~the-fee-provided-for-in-subsection-{i}{a}{i}-may-apply-to~~
 12 ~~the-incineration-or-disposal-of-waste-generated-in-a~~
 13 ~~different-region-if-based-on-the-recommendation-of-the~~
 14 ~~department-or-on-evidence-provided-at-hearing-the-board~~
 15 (2) THE FEE PROVIDED IN SUBSECTION (1) MUST BE WAIVED
 16 IF THE DEPARTMENT finds that the incineration or disposal is
 17 consistent with state solid waste management goals and
 18 results in equivalent or improved protection of the
 19 MONTANA'S public health, safety, and welfare, and the
 20 environment when compared to the alternative of
 21 intraregional incineration or disposal.
 22 ~~{b}-For-a-facility-subject-to-subsection-{i}{b},the~~
 23 ~~fee-provided-for-in-subsection-{i}{b}{i}-may-apply-to-the~~
 24 ~~disposal-of-waste-generated-in-a-different-region-if-based~~
 25 ~~on-the-recommendation-of-the-department-or-on-evidence~~

1 ~~provided-at-hearing,the-board-finds-that-the-disposal-is~~
 2 ~~consistent-with-state-solid-waste-management-goals-and~~
 3 ~~results-in-equivalent-or-improved-protection-of-the-public~~
 4 ~~health,safety,and-welfare-and-the-environment-when~~
 5 ~~compared-to-the-alternative-of-intraregional-disposal;~~
 6 (3) THE INCINERATION OR DISPOSAL OF SOLID WASTE AT A
 7 LICENSED FACILITY IN THE MANNER AND QUANTITY INCINERATED OR
 8 DISPOSED OF BEFORE [THE EFFECTIVE DATE OF THIS ACT] IS
 9 EXEMPT FROM THE SOLID WASTE MANAGEMENT FEE.
 10 ~~{3}{4}~~ All fees collected must be deposited in the
 11 solid waste management account provided for in [section 2].
 12 NEW SECTION. Section 2. Solid waste management
 13 account. (1) There is a solid waste management account in
 14 the state special revenue fund provided for in 17-2-102.
 15 (2) There must be deposited in the account:
 16 (a) all revenue from the solid waste management fee
 17 provided for in [section 1]; and
 18 (b) money received by the department in the form of
 19 legislative appropriations, reimbursements, gifts, federal
 20 funds, or appropriations from any source, intended to be
 21 used for the purposes of the account.
 22 (3) The account may be used by the department only for
 23 the administration of part 2, and this part, AND [SECTION
 24 5].
 25 NEW SECTION. Section 3. Solid waste disposal regions.

(1) There are six solid waste disposal regions, as follows:

(a) eastern Montana, consisting of Phillips, Garfield, Rosebud, and Powder River counties and all Montana counties east of these counties;

(b) northern Montana, consisting of Blaine, Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole counties;

(c) south central Montana, consisting of Bighorn, Carbon, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and Yellowstone counties;

(d) southwestern Montana, consisting of Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Meagher, Park, Powell, and Silver Bow counties;

(e) northwest Montana, consisting of Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders counties; and

(f) all areas outside of Montana.

(2) The department shall assist and encourage persons involved in solid waste management to coordinate activities within each region in Montana to provide for the safe, efficient, and effective management of solid waste.

NEW SECTION. Section 4. Penalties for failure to pay fee. A person who owns a solid waste disposal facility

subject to a fee under [section 1] and fails to pay the fee in the manner provided by department rule is subject to a fine of not more than \$2,000 or imprisonment not to exceed 6 months, or both, and shall reimburse the department for the amount of the fee owed and interest calculated at a rate equal to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

NEW SECTION. Section 5. Solid waste incineration -- additional permit requirements. ~~{1}-The owner or operator of a facility that proposes to incinerate more than 70 tons of solid waste in any day shall apply to the department, pursuant to 75-2-211, for a permit authorizing the incineration and consequent emissions.~~ (1) A PERSON MAY NOT OPERATE A SOLID WASTE INCINERATOR OF ANY OF THE FOLLOWING CATEGORIES UNTIL THE DEPARTMENT HAS ISSUED AN AIR QUALITY PERMIT PURSUANT TO THIS CHAPTER, INCLUDING THE CONDITIONS PROVIDED IN THIS SECTION:

(A) A NEW COMMERCIAL SOLID WASTE INCINERATOR; OR

(B) A PERMITTED SOLID WASTE INCINERATOR THAT WOULD INCINERATE SOLID WASTE IN AN AMOUNT, FORM, KIND, OR CONTENT DIFFERENT FROM ITS PERMITTED OPERATION OR THAT WOULD INCINERATE ANY MATERIAL THAT CHANGES THE NATURE, CHARACTER, OR COMPOSITION OF ITS EMISSIONS.

(2) The department may not issue a permit to a facility described in subsection (1) until:

(a) the owner or operator has provided to the department's satisfaction:

(i) a characterization of emissions and ambient concentrations of air pollutants, including hazardous air pollutants, from any existing incineration at the facility; and

(ii) an estimate of emissions and ambient concentrations of air pollutants, including hazardous air pollutants, from the incineration of solid waste as proposed in the permit application ~~and~~ OR MODIFICATION;

(B) THE PUBLIC HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PERMIT APPLICATION OR MODIFICATION; AND

~~(b)~~ (C) the department has reached a determination that the projected emissions and ambient concentrations will constitute a negligible risk to the public health, safety, and welfare and to the environment.

(3) The department shall require the application of air pollution control equipment, engineering, or procedures as necessary to satisfy the determination required under subsection (2)~~(b)~~ (C). The equipment, engineering, or procedures must provide particulate and gaseous emission reductions equivalent to or more stringent than those achieved through the best available control technology, in addition to any other controls necessary to satisfy the determination required under subsection (2)~~(b)~~ (C).

(4) THIS SECTION DOES NOT RELIEVE AN OWNER OR OPERATOR OF A FACILITY THAT INCINERATES 70--TONS--OR--LESS--OF--SOLID WASTE--A--DAY SOLID WASTE INCINERATOR THAT IS NOT INCLUDED UNDER SUBSECTION (1) FROM THE OBLIGATION TO OBTAIN ANY PERMIT OTHERWISE REQUIRED UNDER THIS CHAPTER OR RULES IMPLEMENTING THIS CHAPTER.

NEW SECTION. SECTION 6. LOCAL APPROVAL REQUIRED FOR INCINERATION OR DISPOSAL OF SOLID WASTE GENERATED OUTSIDE THE REGION. (1) AN EXCEPT AS PROVIDED IN SUBSECTION (3), AN OWNER OR OPERATOR OF A SOLID WASTE MANAGEMENT FACILITY WHO PROPOSES TO INCINERATE OR DISPOSE OF SOLID WASTE GENERATED OUTSIDE THE SOLID WASTE DISPOSAL REGION IN WHICH THE FACILITY IS LOCATED SHALL, BEFORE RECEIVING THE WASTE, APPLY FOR AND RECEIVE APPROVAL FROM THE LOCAL GOVERNMENT OR GOVERNMENTS HAVING JURISDICTION OVER THE FACILITY.

(2) THE LOCAL GOVERNMENT OR GOVERNMENTS MAY APPROVE THE INCINERATION OR DISPOSAL OF SOLID WASTE FROM OUTSIDE THE REGION, IF THE LOCAL GOVERNMENT OR GOVERNMENTS FIND THAT INCINERATION OR DISPOSAL OF THE SOLID WASTE IS CONSISTENT WITH LOCAL AND STATE SOLID WASTE MANAGEMENT GOALS AND RESULTS IN EQUIVALENT OR IMPROVED PROTECTION OF PUBLIC HEALTH, SAFETY, WELFARE, AND THE ENVIRONMENT WITHIN THE JURISDICTION.

(3) LOCAL APPROVAL UNDER THIS SECTION IS NOT REQUIRED FOR THE INCINERATION OR DISPOSAL OF SOLID WASTE AT A SOLID

WASTE MANAGEMENT FACILITY IN THE MANNER AND AMOUNT
INCINERATED OR DISPOSED OF BEFORE [THE EFFECTIVE DATE OF
THIS ACT].

NEW SECTION. **SECTION 7.** MORATORIUM ON CERTAIN
INTERSTATE TRANSPORT OF SOLID WASTE. (1) THE STATE OF
MONTANA RECOGNIZES THE IMPORTANCE OF PROVIDING FOR DISPOSAL
OR INCINERATION OF SOLID WASTE IN A MANNER THAT PROTECTS
MONTANA'S PUBLIC HEALTH, SAFETY, WELFARE, AND ENVIRONMENT.
ALTHOUGH THE STATE OF MONTANA ALSO RECOGNIZES THAT, UNDER
APPROPRIATE CONDITIONS, THE TRANSPORTATION OF OUT-OF-STATE
SOLID WASTE INTO MONTANA MAY NOT CONFLICT WITH THIS GOAL, IT
IS IMPERATIVE THAT THE STATE UNDERTAKE A LEGISLATIVE STUDY
OF SOLID WASTE REGULATION AND MANAGEMENT, FURTHER DEVELOP
REGIONAL AND STATEWIDE SOLID WASTE MANAGEMENT GOALS AND,
PLANS, AND REGULATIONS, AND ADOPT RULES IMPLEMENTING THIS
ACT THE SOLID WASTE MANAGEMENT FEE BEFORE ALLOWING SOLID
WASTE IMPORTATION BEYOND CURRENT LEVELS.

(2) EXCEPT AS PROVIDED IN SUBSECTION (3), A PERSON MAY
NOT TRANSPORT SOLID WASTE INTO MONTANA UNTIL OCTOBER 1,
1991.

(3) A PERSON WHO TRANSPORTED SOLID WASTE INTO MONTANA
BEFORE [THE EFFECTIVE DATE OF THIS ACT] MAY CONTINUE TO
TRANSPORT SOLID WASTE INTO MONTANA SUBJECT TO THE LIMITATION
THAT THE AMOUNT HE TRANSPORTS INTO MONTANA DURING ANY
CALENDAR YEAR OF THE MORATORIUM DOES NOT SIGNIFICANTLY

EXCEED THE AMOUNT HE TRANSPORTED INTO MONTANA DURING
CALENDAR YEAR 1988.

NEW SECTION. **SECTION 8.** ADMINISTRATIVE ENFORCEMENT.

(1) WHEN THE DEPARTMENT BELIEVES THAT A VIOLATION OF PART 1
OR THIS PART, A VIOLATION OF A RULE ADOPTED UNDER PART 1 OR
THIS PART, OR A VIOLATION OF A PERMIT PROVISION HAS
OCCURRED, IT MAY SERVE WRITTEN NOTICE OF THE VIOLATION ON
THE ALLEGED VIOLATOR OR HIS AGENT. THE NOTICE MUST SPECIFY
THE PROVISION OF LAW, RULE, OR PERMIT ALLEGED TO BE VIOLATED
AND THE FACTS ALLEGED TO CONSTITUTE A VIOLATION AND MAY
INCLUDE AN ORDER TO TAKE NECESSARY CORRECTIVE ACTION WITHIN
A REASONABLE PERIOD OF TIME STATED IN THE ORDER. THE ORDER
BECOMES FINAL UNLESS, WITHIN 30 DAYS AFTER THE NOTICE IS
SERVED, THE PERSON NAMED REQUESTS IN WRITING A HEARING
BEFORE THE BOARD. ON RECEIPT OF THE REQUEST, THE BOARD SHALL
SCHEDULE A HEARING. SERVICE BY MAIL IS COMPLETE ON THE DATE
OF MAILING.

(2) IF, AFTER A HEARING HELD UNDER SUBSECTION (1), THE
BOARD FINDS THAT A VIOLATION HAS OCCURRED, IT SHALL EITHER
AFFIRM OR MODIFY THE DEPARTMENT'S ORDER. AN ORDER ISSUED BY
THE DEPARTMENT OR BY THE BOARD MAY PRESCRIBE THE DATE BY
WHICH THE VIOLATION MUST CEASE AND MAY PRESCRIBE TIME LIMITS
FOR PARTICULAR ACTION. IF, AFTER HEARING, THE BOARD FINDS NO
VIOLATION HAS OCCURRED, IT SHALL RESCIND THE DEPARTMENT'S
ORDER.

(3) INSTEAD OF ISSUING AN ORDER PURSUANT TO SUBSECTION (1), THE DEPARTMENT MAY EITHER:

(A) REQUIRE THE ALLEGED VIOLATOR TO APPEAR BEFORE THE BOARD FOR A HEARING AT A TIME AND PLACE SPECIFIED IN THE NOTICE AND ANSWER THE CHARGES; OR

(B) INITIATE ACTION UNDER PART 1 OR THIS PART.

(4) THIS SECTION DOES NOT PREVENT THE BOARD OR DEPARTMENT FROM MAKING EFFORTS TO OBTAIN VOLUNTARY COMPLIANCE THROUGH WARNING, CONFERENCE, OR ANY OTHER APPROPRIATE MEANS.

NEW SECTION. SECTION 9. CIVIL PENALTIES. (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS PART, A RULE ADOPTED UNDER THIS PART, OR A LICENSE PROVISION IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED \$1,000. EACH DAY OF VIOLATION CONSTITUTES A SEPARATE VIOLATION.

(2) THE DEPARTMENT MAY INSTITUTE AND MAINTAIN IN THE NAME OF THE STATE ANY ENFORCEMENT PROCEEDINGS UNDER THIS SECTION. UPON REQUEST OF THE DEPARTMENT, THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY OF THE COUNTY WHERE THE VIOLATION OCCURRED SHALL PETITION THE DISTRICT COURT TO IMPOSE, ASSESS, AND RECOVER THE CIVIL PENALTY.

Section 10. Section 75-10-104, MCA, is amended to read:

"75-10-104. Duties of department. The department shall:

(1) prepare a state solid waste management and resource recovery plan for submission to the board;

(2) prepare rules necessary for the implementation of this part for submission to the board, including but not limited to rules:

(a) governing the submission of plans for a solid waste management system; ~~rules;~~

(b) governing procedures to be followed in applying for and making loans; ~~and rules;~~

(c) governing agreements between a local government and the department for grants or loans under this part;

(d) establishing, for the purpose of determining the solid waste management fee to which a facility is subject under [section 1], methods for determining or estimating the amount of solid waste incinerated or disposed of at a facility;

(e) providing procedures for the quarterly collection of the solid waste management fee provided for in [section 1]; and

(f) providing guidelines for ~~recommendations-to-the board--concerning--the--application--of--intraregional--fees instead--of--interregional~~ A WAIVER OF fees for certain incineration or disposal of solid waste, as provided for in [section 1(2)];

(3) provide financial assistance to local governments

1 for front-end planning activities for a proposed solid waste
2 management system which is compatible with the state plan
3 whenever ~~such~~ financial assistance is available;

4 (4) provide technical assistance to persons within the
5 state for planning, designing, constructing, financing, and
6 operating a solid waste management system in order to insure
7 that the system conforms to the state plan;

8 (5) provide front-end organizational loans for the
9 implementation of an approved solid waste management system
10 whenever funds for ~~such~~ loans are available;

11 (6) enforce and administer the provisions of this
12 part;

13 (7) administer loans made by the state under the
14 provisions of this part; and

15 (8) approve plans for a proposed solid waste
16 management system submitted by a local government."

17 **Section 11.** Section 75-10-105, MCA, is amended to
18 read:

19 "75-10-105. Powers of department. The department may:

20 (1) accept loans and grants from the federal
21 government and other sources to carry out the provisions of
22 this part;

23 (2) make loans to a local government for the planning,
24 design, and implementation of a solid waste management
25 system; and

1 (3) make grants for a local government for planning or
2 implementation of a solid waste management system; and

3 (4) collect the solid waste management fee provided
4 for in [section 1]."

5 **SECTION 12.** SECTION 75-10-214, MCA, IS AMENDED TO
6 READ:

7 "75-10-214. Exclusions -- exceptions to exclusions.

8 (1) This part may not be construed to prohibit a person from
9 disposing of his own solid waste generated in Montana upon
10 land owned or leased by that person or covered by easement
11 or permit as long as it does not create a nuisance or public
12 health hazard.

13 (2) The exclusion contained in subsection (1) of this
14 section does not apply to a division of land of 5 acres or
15 less made after July 1, 1977, which falls within the
16 definition of subdivision in Title 76, chapter 4, part 1, or
17 the Montana Subdivision and Platting Act in Title 76,
18 chapter 3."

19 **NEW SECTION.** **Section 13.** Extension of authority. Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

23 **NEW SECTION.** **Section 14.** Codification instruction.
24 (1) [Sections 1 through 4] are intended to be codified as an
25 integral part of Title 75, chapter 10, part 1, and the

1 provisions of Title 75, chapter 10, part 1, apply to
2 [sections 1 through 4].

3 (2) [Section 5] is intended to be codified as an
4 integral part of Title 75, chapter 2, part 2, and the
5 provisions of Title 75, chapter 2, part 2, apply to [section
6 5].

7 (3) [SECTION SECTIONS 6 THROUGH 8 9] IS ARE INTENDED
8 TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 75, CHAPTER 10,
9 PART 2, AND THE PROVISIONS OF TITLE 75, CHAPTER 10, PART 2,
10 APPLY TO [SECTION SECTIONS 6 THROUGH 8 9].

11 NEW SECTION. Section 15. Severability. If a part of
12 [this act] is invalid, all valid parts that are severable
13 from the invalid part remain in effect. If a part of [this
14 act] is invalid in one or more of its applications, the part
15 remains in effect in all valid applications that are
16 severable from the invalid applications.

17 NEW SECTION. Section 16. Effective ~~dates----~~~~{1}~~
18 ~~{Sections--1--through-4-and-6-through-10}-are-effective-July~~
19 ~~17-1989-~~

20 ~~{2}--{Section-5-and-this-section}-are~~ DATE. [THIS ACT]
21 IS effective on passage and approval.

-End-

Mr. President and Mr. Speaker:

We, your Free Conference Committee on House Bill 752 met and considered:

House Bill 752 (reference bill- salmon).

We recommend that House Bill 752 (reference copy -- salmon) be amended as follows:

1. Title, line 15.

Following: "PENALTY"

Insert: "AND ADMINISTRATIVE ENFORCEMENT"

2. Page 3, line 9.

Following: "FEE"

Insert: "and from the requirement for local government approval under [section 6]"

3. Page 3, line 12.

Strike: "large-scale incineration"

Insert: "new commercial incinerator"

4. Page 3, line 13.

Strike: "wastes"

Insert: "waste and not authorize any existing incinerator to change the amount, form, kind, or content of the material it incinerates or to incinerate any material that would change the nature, character, or composition of the emissions"

5. Page 3, line 18.

Following: "environment."

Insert: "For a permitted solid waste incinerator, the department shall consider an increase in the amount of medical waste incinerated as sufficient to trigger the additional permit and review requirements provided in [section 5], including consideration of emissions of hydrochloric acid, compounds deriving from plastic incineration, and other hazardous air pollutants."

ADOPT

REJECT

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6. Page 7, line 22 through line 1, page 8.

Following: "requirements." on line 22

Strike: subsection (1) in its entirety

Insert: " (1) A person may not operate a solid waste incinerator of any of the following categories until the department has issued an air quality permit pursuant to this chapter, including the conditions provided in this section:

(a) a new commercial solid waste incinerator; or

(b) a permitted solid waste incinerator that would incinerate solid waste in an amount, form, kind, or content different from its permitted operation or that would incinerate any material that changes the nature, character, or composition of its emissions."

7. Page 8, line 13.

Following: "application"

Strike: "; and"

Insert: "or modification;

(b) the public has had an opportunity to review and comment on the permit application or modification; and"

8. Page 8, line 14.

Strike: "(b)"

Insert: "(c)"

9. Page 8, line 21.

Strike: "(b)"

Insert: "(c)"

10. Page 9, line 1.

Strike: "(b)"

Insert: "(c)"

11. Page 9, lines 3 and 4.

Strike: "FACILITY" on line 3 through "DAY" on line 4

Insert: "solid waste incinerator that is not included under subsection (1)"

12. Page 9, line 9.

Strike: "AN"

Insert: "Except as provided in subsection (3), an"

13. Page 9.

Following: line 23

Insert: "(3) Local approval under this section is not required for the incineration or disposal of solid

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waste at a solid waste management facility in the manner and amount incinerated or disposed of before [the effective date of this act].

14. Page 10, line 9.

Following: "GOALS"

Strike: "AND"

Insert: ", "

15. Page 10, line 10.

Following: "PLANS,"

Insert: "and regulations,"

Following: "IMPLEMENTING"

Strike: "[THIS ACT]"

Insert: "the solid waste management fee"

16. Page 10, line 19.

Following: "YEAR"

Insert: "of the moratorium"

17. Page 10.

Following: line 20

Insert: "NEW SECTION. Section 8. Administrative enforcement. (1) When the department believes that a violation of part 1 or this part, a violation of a rule adopted under part 1 or this part, or a violation of a permit provision has occurred, it may serve written notice of the violation on the alleged violator or his agent. The notice must specify the provision of law, rule, or permit alleged to be violated and the facts alleged to constitute a violation and may include an order to take necessary corrective action within a reasonable period of time stated in the order. The order becomes final unless, within 30 days after the notice is served, the person named requests in writing a hearing before the board. On receipt of the request, the board shall schedule a hearing. Service by mail is complete on the date of mailing.

(2) If, after a hearing held under subsection (1), the board finds that a violation has occurred, it shall either affirm or modify the department's order. An order issued by the department or by the board may prescribe the date by which the violation must cease and may prescribe time limits for particular action. If, after hearing, the board finds no violation has occurred, it shall rescind the department's order.

(3) Instead of issuing an order pursuant to subsection (1), the department may either:

(a) require the alleged violator to appear before

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the board for a hearing at a time and place specified in the notice and answer the charges; or

(b) initiate action under part 1 or this part.

(4) This section does not prevent the board or department from making efforts to obtain voluntary compliance through warning, conference, or any other appropriate means."

Renumber: subsequent sections

18. Page 14, line 16.

Strike: "8"

Insert: "9"

19. Page 14, line 19.

Strike: "8"

Insert: "9"

And that this Free Conference Committee Report be adopted.

For the House:

Bob Raney
Rep. Bob Raney, Chairman

My McDonough
Rep. McDonough

Hannah
Rep. Hannah

For the Senate:

Pete Story
Sen. Pete Story, Chairman

Sen. Jenkins
Sen. Jenkins

Sen. Weeding
Sen. Weeding